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(Original Signature of Member)

108TH CONGRESS
1ST SESSION

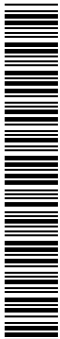
H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. PORTMAN introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to make today's retirement savings opportunities permanent, to expand and improve retirement savings vehicles, to extend pension coverage through regulatory simplification and small business incentives, to enhance fairness and pension portability, to revitalize defined benefit plans, to provide additional defined contribution plan protections, to assist individuals in preserving their income throughout retirement, and for other purposes.



1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Pension Preservation and Savings Expansion Act of
7 2003”.

8 (b) AMENDMENT OF 1986 CODE.—Except as other-
9 wise expressly provided, whenever in this Act an amend-
10 ment or repeal is expressed in terms of an amendment
11 to, or repeal of, a section or other provision, the reference
12 shall be considered to be made to a section or other provi-
13 sion of the Internal Revenue Code of 1986.

14 (c) TABLE OF CONTENTS.—The table of contents of
15 this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

**TITLE I—MAKING TODAY’S RETIREMENT SAVINGS
OPPORTUNITIES PERMANENT**

Sec. 101. Pensions and individual retirement arrangement provisions of Eco-
nomic Growth and Tax Relief Reconciliation Act of 2001 made
permanent.

Sec. 102. Saver’s credit made permanent.

TITLE II—PRESERVING RETIREMENT ASSETS

Sec. 201. Simplification and updating of the minimum distribution rules.

Sec. 202. Treatment of unclaimed benefits.

Sec. 203. Facilitation under fiduciary rules of certain rollovers and annuity dis-
tributions.

Sec. 204. Equalizing treatment of defined benefit plans and defined contribu-
tion plans.

Sec. 205. Study concerning defined contribution plan losses due to market vola-
tility.

TITLE III—ENHANCING FAIRNESS AND PENSION PORTABILITY

Sec. 301. Allow transfers to spouse’s retirement plans.



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- Sec. 302. Faster vesting of employer nonelective contributions.
- Sec. 303. Rollovers by nonspouse beneficiaries.
- Sec. 304. Allow direct rollovers from retirement plans to ROTH IRAs.
- Sec. 305. Exclusion of percentage of lifetime annuity payments.
- Sec. 306. Rollover of after-tax amounts in annuity contracts.
- Sec. 307. Fair treatment under substantially equal periodic payments rule.
- Sec. 308. Treatment of subsequent qualified domestic relations orders.
- Sec. 309. Treatment of delayed qualified domestic relations orders.
- Sec. 310. Treatment of annuity contracts.
- Sec. 311. Preservation of pension plans.
- Sec. 312. Certain plan transfers and mergers.

TITLE IV—INCREASING RETIREMENT PLAN PARTICIPATION AND SAVINGS

- Sec. 401. Expansion of the Saver's credit.
- Sec. 402. Acceleration of scheduled increases in pension plan contribution limits.
- Sec. 403. Removing barriers to automatic contribution trust arrangements.
- Sec. 404. Disposition of unused health benefits in cafeteria plans and flexible spending arrangements.
- Sec. 405. Updating deduction rules for combination of plans.

TITLE V—EXPANDING RETIREMENT PLAN COVERAGE TO EMPLOYEES OF SMALL BUSINESSES

- Sec. 501. Additional nonelective employer contributions to simple plans.
- Sec. 502. Matching contribution rules for Simple IRAs and Simple 401(k)s conformed.
- Sec. 503. Salary-reduction only Simple plans.
- Sec. 504. Permit a mid-year change from a Simple plan to another plan.
- Sec. 505. Elimination of higher penalty on certain Simple distributions.
- Sec. 506. Simple plan portability.
- Sec. 507. Correction of Simplified Employee Pension compensation inconsistency.
- Sec. 508. Equalization of tax treatment of retirement plan contributions of the self-employed.

TITLE VI—STRENGTHENING INDIVIDUAL RETIREMENT ARRANGEMENTS

- Sec. 601. Acceleration of increases in IRA contribution limits.
- Sec. 602. Acceleration and expansion of certain scheduled increases in eligibility for IRAs and elimination of IRA marriage penalty.
- Sec. 603. IRA eligibility for the disabled.
- Sec. 604. Protecting IRA assets.

TITLE VII—REVITALIZING DEFINED BENEFIT PLANS

- Sec. 701. Multiple employer plans permitted to elect separate or aggregate treatment for purposes of applying the funding rules and deduction limitations.
- Sec. 702. Treatment of employee contributions to contributory defined benefit plans.
- Sec. 703. Reform of the minimum participation rule.
- Sec. 704. Plan valuation data collection.



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- Sec. 705. Replacement of interest rate on 30-year Treasury securities with interest rate on conservatively-invested long-term corporate bonds.
- Sec. 706. Interest rate range for additional funding requirements.
- Sec. 707. Asset valuation.
- Sec. 708. Multiemployer plan emergency investment loss rule.
- Sec. 709. Mortality table adjustment.

TITLE VIII—SIMPLIFY AND STREAMLINE RETIREMENT PLAN RULES

- Sec. 801. Excise tax on excess contributions.
- Sec. 802. Excess benefit plans.
- Sec. 803. Paperless technologies in retirement plans.
- Sec. 804. Elimination of unintended consequences attributable to use of base pay or rate of pay.
- Sec. 805. Repeal of the gateway test.
- Sec. 806. Intermediate sanctions for inadvertent failures.
- Sec. 807. Qualified preretirement survivor annuity.
- Sec. 808. Cost-of-living adjustment of \$5,000 cash-out amount.
- Sec. 809. Catch-up contributions.
- Sec. 810. Reverse match salary reduction arrangement simplified employee annuity.
- Sec. 811. Level dollar contributions to SEPs.
- Sec. 812. Tax on nondeductible contributions not to apply to certain nontrade or business SEP contributions.
- Sec. 813. Clarification of fiduciary duty.
- Sec. 814. Multiemployer plan clarification.
- Sec. 815. Clarification of status of Young Men's Christian Association Retirement Fund.

TITLE IX—EXPANDING RETIREMENT SAVINGS OPPORTUNITIES FOR EMPLOYEES OF TAX-EXEMPT ORGANIZATIONS AND GOVERNMENTS

- Sec. 901. Deferred compensation plans of tax-exempt organizations.
- Sec. 902. Inapplicability of 10 percent additional tax on early distributions of pension plans of public safety employees.
- Sec. 903. Clarifications regarding purchase of permissive service credit.
- Sec. 904. Certain rollovers of benefits permitted
- Sec. 905. Minimum distribution rules.
- Sec. 906. Church plan rule.
- Sec. 907. Plans maintained by governments and tax-exempt organizations.

TITLE X—RESTRICTING EXCESSIVE REMUNERATION

- Sec. 1001. Golden parachute excise tax to apply to excessive employee remuneration paid by corporation after declaration of bankruptcy.

TITLE XI—DEFINED CONTRIBUTION PLAN PROTECTIONS

- Sec. 1101. Provision of investment education notices to participants.
- Sec. 1102. Notice of blackout periods to participant or beneficiary under defined contribution plan.
- Sec. 1103. Diversification requirements for defined contribution plans that hold employer securities.
- Sec. 1104. Treatment of qualified retirement planning services.



Sec. 1105. Special rules.

TITLE XII—OTHER TAX PROVISIONS RELATING TO PENSIONS

Sec. 1201. Amendments to Retirement Protection Act of 1994.

Sec. 1202. Reporting simplification.

Sec. 1203. Improvement of employee plans compliance resolution system.

Sec. 1204. Extension to all governmental plans of moratorium on application of certain nondiscrimination rules applicable to State and local plans.

Sec. 1205. Notice and consent period regarding distributions.

Sec. 1206. Reduced PBGC premium for new plans of small employers.

Sec. 1207. Reduction of additional PBGC premium for new and small plans.

Sec. 1208. Authorization for PBGC to pay interest on premium overpayment refunds.

Sec. 1209. Substantial owner benefits in terminated plans.

Sec. 1210. Qualified group legal services plans.

Sec. 1211. Studies.

TITLE XIII—STOCK OPTIONS

Sec. 1301. Exclusion of incentive stock options and employee stock purchase plan stock options from wages.

TITLE XIV—OTHER ELEMENTS OF RETIREMENT SECURITY

Sec. 1401. Employee pre-tax payments for retiree health.

Sec. 1402. Encouraging employers to maintain retiree health plans.

TITLE XV—REDUCING REGULATORY BURDENS

Sec. 1501. Provisions relating to plan amendments.

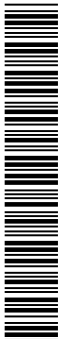
TITLE XVI—SOCIAL SECURITY AND MEDICARE HELD HARMLESS

Sec. 1601. Protection of Social Security and Medicare.

1 TITLE I—MAKING TODAY’S RE- 2 RETIREMENT SAVINGS OPPOR- 3 TUNITIES PERMANENT

4 SEC. 101. PENSIONS AND INDIVIDUAL RETIREMENT AR- 5 RANGEMENT PROVISIONS OF ECONOMIC 6 GROWTH AND TAX RELIEF RECONCILIATION 7 ACT OF 2001 MADE PERMANENT.

8 (a) IN GENERAL.—Section 901 of the Economic
9 Growth and Tax Relief Reconciliation Act of 2001 is



1 amended by adding at the end the following new sub-
2 section:

3 “(c) EXCEPTION.—Subsections (a) and (b) shall not
4 apply to the provisions of, and amendments made by, sub-
5 titles (A) through (F) of title VI (relating to pension and
6 individual retirement arrangement provisions).”.

7 (b) CONFORMING AMENDMENTS.—Section 901(b) of
8 such Act is amended—

9 (1) by striking “and the Employee Retirement
10 Income Security Act of 1974” in the text, and

11 (2) by striking “OF CERTAIN LAWS” in the
12 heading.

13 **SEC. 102. SAVER’S CREDIT MADE PERMANENT.**

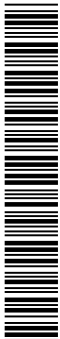
14 (a) IN GENERAL.—Section 25B (relating to elective
15 deferrals and IRA contributions by certain individuals) is
16 amended by striking subsection (h).

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to taxable years beginning after
19 December 31, 2003.

20 **TITLE II—PRESERVING**
21 **RETIREMENT ASSETS**

22 **SEC. 201. SIMPLIFICATION AND UPDATING OF THE MIN-**
23 **IMUM DISTRIBUTION RULES.**

24 (a) REQUIRED DISTRIBUTIONS.—



1 (1) INCREASE IN AGE FOR REQUIRED BEGIN-
 2 NING DATE.—Clauses (i) and (ii) of section
 3 401(a)(9)(C) (relating to required beginning date)
 4 are amended by striking “age 70½” each place it
 5 appears and inserting “the applicable age”.

6 (2) MANDATORY DISTRIBUTION AGE.—Para-
 7 graph (9) of section 401(a) (relating to required dis-
 8 tributions) is amended by inserting at the end the
 9 following new subparagraph:

10 “(H) APPLICABLE AGE.—For purposes of
 11 this paragraph, the applicable age shall be de-
 12 termined in accordance with the following table:

| “Calendar year: | Applicable age is: |
|---------------------------|---------------------------|
| 2004 and 2005 | 72 |
| 2006 and 2007 | 73 |
| 2008 and 2009 | 74 |
| 2010 and thereafter | 75.”. |

13 (3) SPOUSE BENEFICIARIES.—Subclause (I) of
 14 section 401(a)(9)(B)(iv) (relating to special rule for
 15 surviving spouse of employee) is amended by striking
 16 “age 70½” and inserting “the applicable age”.

17 (4) ACTUARIAL ADJUSTMENT OF BENEFIT
 18 UNDER DEFINED BENEFIT PLAN.—Clause (iii) of
 19 section 401(a)(9)(C) (relating to actuarial adjust-
 20 ment) is amended to read as follows:

21 “(iii) ACTUARIAL ADJUSTMENT.—

22 “(I) IN GENERAL.—In the case
 23 of a defined benefit plan, an employ-



1 ee's accrued benefit shall be actuari-
2 ally increased to take into account the
3 period after the applicable date during
4 which the employee was not receiving
5 any benefits under the plan.

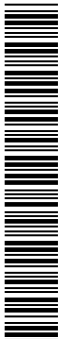
6 “(II) APPLICABLE DATE.—For
7 purposes of clause (I), the term ‘appli-
8 cable date’ means April 1 of the cal-
9 endar year following the calendar year
10 in which the employee attains age
11 $70\frac{1}{2}$.”.

12 (b) PREVENTING TWO REQUIRED DISTRIBUTIONS IN
13 A YEAR.—

14 (1) IN GENERAL.—The portion of clause (i) of
15 section 401(a)(9)(C) that precedes subclause (I) is
16 amended to read as follows:

17 “(i) IN GENERAL.—The term ‘re-
18 quired beginning date’ means the Decem-
19 ber 31 of the later of—”.

20 (2) DATE OF RETIREMENT.—Clause (i) of sec-
21 tion 401(a)(9)(C) is amended by adding at the end
22 the following: “Solely for purposes of subclause (II),
23 an employee who retires during December of a cal-
24 endar year shall be treated as retiring in the fol-
25 lowing calendar year.”.



1 (c) REDUCTION IN EXCISE TAX.—Subsection (a) of
2 section 4974 (relating to excise tax on certain accumula-
3 tions in qualified retirement plans) is amended by striking
4 “50 percent” and inserting “20 percent”.

5 (d) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the amendments made by this section
8 shall apply to years beginning after December 31,
9 2003.

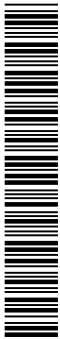
10 (2) SPECIAL RULE.—In the case of a partici-
11 pant who attains age 70½ prior to January 1, 2004,
12 the amendments made by this section shall apply to
13 years beginning after December 31, 2003, as if such
14 amendments had been effective in years beginning
15 before January 1, 2004.

16 **SEC. 202. TREATMENT OF UNCLAIMED BENEFITS.**

17 (a) AMENDMENTS TO INTERNAL REVENUE CODE OF
18 1986.—

19 (1) AMENDMENT TO SECTION 401(a)(34).—Sec-
20 tion 401(a)(34) (relating to benefits of missing par-
21 ticipants) is amended to read as follows:

22 “(34) UNCLAIMED BENEFITS.—A trust forming
23 part of a plan shall not be treated as failing to con-
24 stitute a qualified trust under this section merely be-
25 cause the plan of which such trust is a part treats



1 unclaimed benefits in a manner that satisfies the re-
2 quirements of section 414(y).”.

3 (2) AMENDMENT TO SECTION 414.—Section 414
4 (relating to definitions and special rules) (as amend-
5 ed by this Act) is amended by adding at the end the
6 following new subsection:

7 “(y) UNCLAIMED BENEFITS.—

8 “(1) IN GENERAL.—A plan meets the require-
9 ments of this subsection only if—

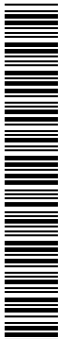
10 “(A) ONGOING PLANS.—In the case of an
11 ongoing plan, the plan provides for one or more
12 of the following with respect to unclaimed bene-
13 fits:

14 “(i) In the case of an unclaimed ben-
15 efit to which section 401(a)(31)(B) applies,
16 a transfer under section 401(a)(31)(B).

17 “(ii) A transfer to the Pension Benefit
18 Guaranty Corporation, in accordance with
19 section 4050(e) of the Employee Retire-
20 ment Income Security Act of 1974.

21 “(iii) Any other treatment permitted
22 under rules prescribed by the Secretary.

23 “(B) TERMINATED PLANS.—In the case of
24 a terminated plan, the plan provides for the fol-
25 lowing with respect to unclaimed benefits:



1 “(i) DEFINED BENEFIT PLANS.—In
2 the case of a defined benefit plan, one or
3 more of the following:

4 “(I) In the case of an unclaimed
5 benefit to which section 401(a)(31)(B)
6 applies, a transfer under section
7 401(a)(31)(B).

8 “(II) A transfer of the unclaimed
9 benefit to another defined benefit plan
10 maintained by the employer.

11 “(III) The purchase of an annu-
12 ity contract to provide for an individ-
13 ual’s unclaimed benefit.

14 “(IV) A transfer to the Pension
15 Benefit Guaranty Corporation in ac-
16 cordance with section 4050(a) or
17 4050(e) (as applicable) of the Em-
18 ployee Retirement Income Security
19 Act of 1974.

20 “(V) Any other treatment per-
21 mitted under rules prescribed by the
22 Secretary.

23 “(ii) DEFINED CONTRIBUTION
24 PLANS.—In the case of a defined contribu-
25 tion plan, one or more of the following:



1 “(I) In the case of an unclaimed
2 benefit to which section 401(a)(31)(B)
3 applies, a transfer under section
4 401(a)(31)(B).

5 “(II) A transfer of the unclaimed
6 benefit to another defined contribution
7 plan maintained by the employer.

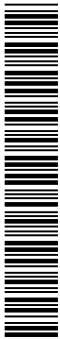
8 “(III) The purchase of an annu-
9 ity contract to provide for an individ-
10 ual’s unclaimed benefit.

11 “(IV) A transfer to the Pension
12 Benefit Guaranty Corporation in ac-
13 cordance with section 4050(d) or
14 4050(e) (as applicable) of the Em-
15 ployee Retirement Income Security
16 Act of 1974.

17 “(V) Any other treatment per-
18 mitted under rules prescribed by the
19 Secretary.

20 “(2) TREATMENT OF TRANSFERS TO PENSION
21 BENEFIT GUARANTY CORPORATION.—

22 “(A) TRANSFERS TO PBGC.—Amounts
23 transferred from a plan to the Pension Benefit
24 Guaranty Corporation pursuant to paragraph



1 (1) shall be treated as a transfer under section
2 401(a)(31)(A).

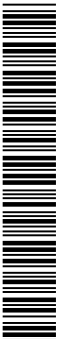
3 “(B) DISTRIBUTIONS FROM PBGC.—Ex-
4 cept as provided in rules prescribed by the Sec-
5 retary, amounts distributed by the Pension
6 Benefit Guaranty Corporation shall be treated
7 as distributed by an individual retirement plan
8 under section 408(d) (without regard to para-
9 graphs (4), (5) and (7) thereof). Rules similar
10 to the rules of section 402(c)(4) shall apply.

11 “(3) DEFINITIONS.—For purposes of this
12 subsection—

13 “(A) UNCLAIMED BENEFIT.—The term
14 ‘unclaimed benefit’ means—

15 “(i) any benefit of a participant or
16 beneficiary which is distributable under the
17 terms of the plan to the participant or ben-
18 eficiary, if the distribution of the benefit
19 has not commenced within 1 year after the
20 later of the date on which the benefit first
21 became so distributable or the participant’s
22 severance from employment;

23 “(ii) any benefit or other amount of a
24 participant or beneficiary which is distrib-

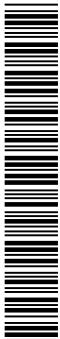


1 utable under the terms of the plan with re-
2 spect to a missing participant, or

3 “(iii) any benefit to which section
4 401(a)(31)(B) applies or would apply if
5 subclause (I) of section 401(a)(31)(B)(i)
6 did not require the distribution to exceed
7 \$1,000.

8 A benefit otherwise described in clause (i) shall
9 not be treated as an unclaimed benefit under
10 clause (i) if the participant or beneficiary elects
11 not to have such treatment apply. Any such
12 participant or beneficiary shall be given reason-
13 able notice of the opportunity to make such an
14 election. If the participant or beneficiary fails to
15 make such an election within a reasonable pe-
16 riod specified in the notice, any subsequent elec-
17 tion shall not be given effect and the benefit
18 shall be treated as an unclaimed benefit. A no-
19 tice mailed to the last known address of the
20 participant or beneficiary shall be treated as a
21 notice to the participant or beneficiary for pur-
22 poses of this paragraph.

23 “(B) ONGOING PLAN.—The term ‘ongoing
24 plan’ means any plan which has neither termi-
25 nated nor is in the process of terminating.



1 “(C) TERMINATED PLAN.—The term ‘ter-
2 minated plan’ means any plan which has termi-
3 nated or is in the process of terminating.

4 “(D) MISSING PARTICIPANT.—The term
5 ‘missing participant’ shall have the meaning
6 given to such term by section 4050(b)(1) of the
7 Employee Retirement Income Security Act of
8 1974.”.

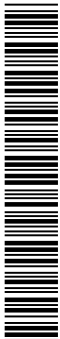
9 (3) CONFORMING AMENDMENT.—Subparagraph
10 (B) of section 401(a)(31) is amended by adding at
11 the end the following:

12 “(iii) OTHER PERMITTED TRANS-
13 FERS.—A plan administrator shall be
14 treated as having complied with the re-
15 quirements of this subparagraph if such
16 plan administrator complies with the re-
17 quirements of section 414(y).”.

18 (b) AMENDMENTS TO EMPLOYEE RETIREMENT IN-
19 COME SECURITY ACT OF 1974.—

20 (1) IN GENERAL.—Subsection (b) of section
21 4050 of the Employee Retirement Income Security
22 Act of 1974 (29 U.S.C. 1350) is amended by adding
23 at the end the following paragraph:

24 “(3) UNCLAIMED BENEFIT.—The term ‘un-
25 claimed benefit’ means—

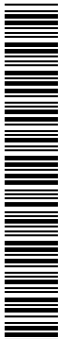


1 “(A) any benefit of a participant or bene-
2 ficiary which is distributable under the terms of
3 the plan to the participant or beneficiary, if the
4 distribution of the benefit has not commenced
5 within 1 year after the later of the date on
6 which the benefit first became so distributable
7 or the participant’s severance from employment;

8 “(B) any benefit or other amount of a par-
9 ticipant or beneficiary which is distributable
10 under the terms of the plan with respect to a
11 missing participant, or

12 “(C) any benefit to which section
13 401(a)(31)(B) of the Internal Revenue Code of
14 1986 applies or would apply if subclause (I) of
15 section 401(a)(31)(B)(i) of such Code did not
16 require the distribution to exceed \$1,000.

17 A benefit otherwise described in subparagraph (A)
18 shall not be treated as an unclaimed benefit under
19 subparagraph (A) if the participant or beneficiary
20 elects not to have such treatment apply. Any such
21 participant or beneficiary shall be given reasonable
22 notice of the opportunity to make such an election.
23 If the participant or beneficiary fails to make such
24 an election within a reasonable period specified in
25 the notice, any subsequent election shall not be given



1 effect and the benefit shall be treated as an un-
2 claimed benefit. A notice mailed to the last known
3 address of the participant or beneficiary shall be
4 treated as a notice to the participant or beneficiary
5 for purposes of this paragraph.”.

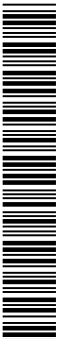
6 (2) OTHER AMENDMENTS.—Section 4050 of
7 such Act is amended by redesignating subsection (c)
8 as subsection (f) and by inserting after subsection
9 (b) the following new subsections:

10 “(c) MULTIEMPLOYER PLANS.—The corporation
11 shall prescribe rules similar to the rules in subsection (a)
12 for multiemployer plans covered by this title that termi-
13 nate under section 4041A.

14 “(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

15 “(1) TRANSFER TO CORPORATION.—The plan
16 administrator of a plan described in paragraph (4)
17 may elect to transfer a missing participant’s benefits
18 to the corporation upon termination of the plan.

19 “(2) INFORMATION TO THE CORPORATION.—To
20 the extent provided in regulations, the plan adminis-
21 trator of a plan described in paragraph (4) shall,
22 upon termination of the plan, provide the corpora-
23 tion information with respect to the benefits of a
24 missing participant if the plan transfers such
25 benefits—



1 “(A) to the corporation, or

2 “(B) to an entity other than the corpora-
3 tion or a plan described in paragraph (4)(B)(ii).

4 “(3) PAYMENT BY THE CORPORATION.—If ben-
5 efits of a missing participant were transferred to the
6 corporation under paragraph (1), the corporation
7 shall, upon location of the participant or beneficiary,
8 pay to the participant or beneficiary the amount
9 transferred (or the appropriate survivor benefit)
10 either—

11 “(A) in a single sum (plus interest), or

12 “(B) in such other form as is specified in
13 regulations of the corporation.

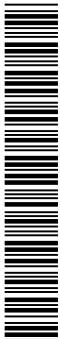
14 “(4) PLANS DESCRIBED.—A plan is described
15 in this paragraph if—

16 “(A) the plan is a pension plan (within the
17 meaning of section 3(2))—

18 “(i) to which the provisions of this
19 section do not apply (without regard to
20 this subsection), and

21 “(ii) which is not a plan described in
22 paragraphs (2) through (11) of section
23 4021(b), and

24 “(B) at the time the assets are to be dis-
25 tributed upon termination, the plan—



1 “(i) has missing participants, and

2 “(ii) has not provided for the transfer
3 of assets to pay the benefits of all missing
4 participants to another pension plan (with-
5 in the meaning of section 3(2)).

6 “(5) CERTAIN PROVISIONS NOT TO
7 APPLY.—Subsections (a)(1) and (a)(3) shall not
8 apply to a plan described in paragraph (4).

9 “(e) UNCLAIMED BENEFITS.—

10 “(1) TRANSFER TO CORPORATION.—The plan
11 administrator of a plan described in paragraph (6)
12 may elect to transfer unclaimed benefits to the cor-
13 poration.

14 “(2) INFORMATION TO THE CORPORATION.—
15 The corporation may impose such conditions on
16 transfers of unclaimed benefits to the corporation as
17 the corporation determines are necessary to facilitate
18 administration of this subsection and are not incon-
19 sistent with the purposes of this subsection. Such
20 conditions may include requirements that the trans-
21 ferring plan provide to the corporation specified in-
22 formation and documentation.

23 “(3) PAYMENT TO THE CORPORATION.—With
24 respect to any participant, any transfer of an un-
25 claimed benefit to the corporation shall—



1 “(A) in the case of a defined benefit plan,
2 be a transfer of the participant’s designated
3 benefit, or

4 “(B) in the case of an individual account
5 plan, be a transfer of the participant’s vested
6 account balance under the plan.

7 “(4) PAYMENT BY THE CORPORATION.—Subject
8 to such reasonable restrictions as may be prescribed
9 in regulations of the corporation (relating to invest-
10 ment limitations and otherwise)—

11 “(A) unclaimed benefits of a participant or
12 beneficiary which are transferred to the cor-
13 poration pursuant to this subsection shall be
14 distributed by the corporation to the participant
15 or beneficiary not later than upon application
16 filed by the participant or beneficiary with the
17 corporation in such form and manner as may
18 be prescribed in regulations of the corporation,
19 and

20 “(B) such benefits shall—

21 “(i) in the case of an individual ac-
22 count plan, be paid in a single sum (plus
23 interest) or in such other form as is speci-
24 fied in regulations of the corporation, or



1 “(ii) in the case of a defined benefit
2 plan, be paid—

3 “(I) in an amount based on the
4 designated benefit and the assump-
5 tions prescribed by the corporation at
6 the time that the corporation received
7 the benefit, and

8 “(II) in a form determined under
9 regulations of the corporation.

10 “(5) NOTICE.—Any transfer of unclaimed bene-
11 fits of a participant or beneficiary to the corporation
12 pursuant to this subsection may occur only after
13 reasonable advance notice of such transfer is pro-
14 vided by the plan administrator to the participant or
15 beneficiary. The plan administrator shall also pro-
16 vide to the participant or beneficiary notice of any
17 such transfer not later than 30 days after the date
18 of the transfer. Notice mailed to the last known ad-
19 dress of the participant or beneficiary shall be treat-
20 ed as a notice to the participant or beneficiary for
21 purposes of this paragraph. Any such notice shall in-
22 clude information regarding procedures for obtaining
23 the distribution of benefits from the corporation in
24 accordance with paragraph (4).



1 “(6) PLANS DESCRIBED.—A plan is described
2 in this paragraph if the plan is a pension plan (with-
3 in the meaning of section 3(2)—

4 “(A)(i) which has neither terminated nor is
5 in the process of terminating, or

6 “(ii) in the case of an unclaimed benefit to
7 which section 401(a)(31)(B) of the Internal
8 Revenue Code of 1986 applies (other than an
9 unclaimed benefit of a missing participant),
10 which has terminated or is in the process of ter-
11 minating, and

12 “(B) which is not a plan described in para-
13 graphs (2) through (11) of section 4021(b).

14 “(6) CERTAIN PROVISIONS NOT TO APPLY.—
15 Subsections (a)(1) and (a)(3) shall not apply to a
16 plan described in paragraph (6).”.

17 (3) CONFORMING AMENDMENT.—Section
18 4021(b) of such Act (29 U.S.C. 1321(b)(1)) is
19 amended by striking “This” and inserting “Except
20 to the extent provided in subsections (d) and (e) of
21 section 4050, this”.

22 (c) ESCHEAT LAWS SUPERSEDED.—Section 514(b)
23 of the Employee Retirement Income Security Act of 1974
24 (29 U.S.C. 1144 (b) (as amended by this Act) is further
25 amended—



1 (1) by redesignating paragraph (10) as para-
2 graph (11), and

3 (2) by inserting after paragraph (9) the fol-
4 lowing new paragraph:

5 “(10) Any escheat or similar law of any State
6 shall be superseded to the extent inconsistent with
7 any transfer or other treatment of unclaimed bene-
8 fits (as defined in section 4050(b)(3)) permitted
9 under the Internal Revenue Code of 1986.”.

10 (d) EFFECTIVE DATES AND RELATED RULES.—

11 (1) IN GENERAL.—The amendments made by
12 subsections (a) and (b) shall apply to years begin-
13 ning after December 31, 2004.

14 (2) REGULATIONS.—The Pension Benefit Guar-
15 anty Corporation shall issue regulations necessary to
16 carry out the amendments made by subsection (b)
17 not later than December 31, 2004.

18 (3) ESCHEAT LAWS SUPERSEDED.—The
19 amendment made by subsection (c) shall apply as of
20 the date of enactment of this Act.

21 **SEC. 203. FACILITATION UNDER FIDUCIARY RULES OF CER-**
22 **TAIN ROLLOVERS AND ANNUITY DISTRIBUTI-**
23 **ONS.**

24 (a) IN GENERAL.—Section 404(c) of the Employee
25 Retirement Income Security Act of 1974 (29 U.S.C.



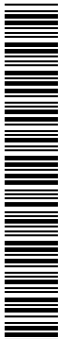
1 1104(c)) is amended by adding at the end the following
2 new paragraph:

3 “(4)(A) In the case of a pension plan which makes
4 a transfer under section 401(a)(31)(A) of the Internal
5 Revenue Code of 1986 to an individual retirement plan
6 (as defined in section 7701(a)(37) of such Code) in con-
7 nection with a participant or beneficiary or makes a dis-
8 tribution to a participant or beneficiary of an annuity con-
9 tract described in subparagraph (B), the participant or
10 beneficiary shall, for purposes of paragraph (1), be treated
11 as exercising control over the transfer or distribution if—

12 “(i) the participant or beneficiary elected such
13 transfer or distribution, and

14 “(ii) in connection with such election, the par-
15 ticipant or beneficiary was given an opportunity to
16 elect any other individual retirement plan (in the
17 case of a transfer) or any other annuity contract de-
18 scribed in subparagraph (B) (in the case of a dis-
19 tribution).

20 “(B) An annuity contract is described in this sub-
21 paragraph if it provides, either on an immediate or de-
22 ferred basis, a series of substantially equal periodic pay-
23 ments (not less frequently than annually) for the life of
24 the participant or beneficiary or the joint lives of the par-
25 ticipant or beneficiary and such individual’s designated



1 beneficiary. Annuity payments shall not fail to be treated
2 as part of a series of substantially equal periodic payments
3 because the amount of the periodic payments may vary
4 in accordance with investment experience, reallocations
5 among investment options, actuarial gains or losses, cost
6 of living indices, or similar fluctuating criteria. The avail-
7 ability of a commutation benefit, a minimum period of
8 payments certain, or a minimum amount to be paid in
9 any event shall not affect the treatment of an annuity con-
10 tract as an annuity contract described in this subpara-
11 graph.

12 “(C) Under regulations prescribed by the Secretary,
13 this paragraph shall apply without regard to whether the
14 particular individual retirement plan receiving the transfer
15 or the particular annuity contract being distributed is spe-
16 cifically identified by the pension plan as available to the
17 participant or beneficiary.

18 “(D) Notwithstanding the preceding provisions of
19 this paragraph, paragraph (1)(B) shall not apply with re-
20 spect to liability under section 406 in connection with the
21 specific identification of any individual retirement plan or
22 annuity contract as being available to the participant or
23 beneficiary.”.

24 (b) EFFECTIVE DATE AND RELATED RULES.—



1 (1) EFFECTIVE DATE.—The amendment made
2 by this section shall take effect on the date of the
3 enactment of this Act.

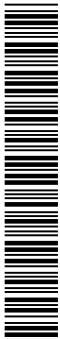
4 (2) ISSUANCE OF FINAL REGULATIONS.—Final
5 regulations under section 404(c)(4) of the Employee
6 Retirement Income Security Act of 1974 (added by
7 this section) shall be issued no later than 1 year
8 after the date of the enactment of this Act.

9 **SEC. 204. EQUALIZING TREATMENT OF DEFINED BENEFIT**
10 **PLANS AND DEFINED CONTRIBUTION PLANS.**

11 The Secretary of Treasury would be directed to per-
12 mit defined benefit plans to satisfy the required distribu-
13 tion rules of section 401(a)(9) of the Internal Revenue
14 Code of 1986 (and provisions which cross reference section
15 401(a)(9) of such Code) by satisfying Temporary Treas-
16 ury Regulation 1.401(a)(9)–6T Q&A 4(b) (the rules appli-
17 cable to annuity contracts distributed under defined con-
18 tribution plans) or by satisfying any final regulations to
19 the extent that such final regulations permit additional
20 means of satisfying section 401(a)(9) of such Code.

21 **SEC. 205. STUDY CONCERNING DEFINED CONTRIBUTION**
22 **PLAN LOSSES DUE TO MARKET VOLATILITY.**

23 (a) IN GENERAL.—The Secretary of the Treasury
24 shall conduct a study to evaluate possible ways to lessen



1 defined contribution plan losses due to volatility of the eco-
2 nomic markets.

3 (b) REQUIREMENTS.—In conducting the study, the
4 Secretary shall investigate—

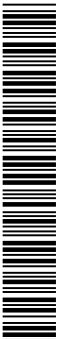
5 (1) the extent to which both long- and short-
6 term stock market volatility affects defined contribu-
7 tion savings,

8 (2) the effect that this volatility has on the con-
9 tinuation and creation of defined contribution plans,

10 (3) investment alternatives and lifetime dis-
11 tribution options for defined contribution plans that
12 may help to ameliorate market risks, and

13 (4) what legislative or administrative steps may
14 be taken to lessen defined contribution plan losses in
15 the future.

16 (c) REPORT.—The Secretary shall transmit to the
17 Committee on Ways and Means of the House of Rep-
18 resentatives and the Committee on Finance of the Senate,
19 within 1 year after the date of enactment of this Act, a
20 report containing the findings and conclusions of such
21 study, together with recommendations for any legislation
22 or administrative actions which the Secretary considers
23 appropriate.



1 **TITLE III—ENHANCING FAIR-**
2 **NESS AND PENSION PORT-**
3 **ABILITY**

4 **SEC. 301. ALLOW TRANSFERS TO SPOUSE'S RETIREMENT**
5 **PLANS.**

6 (a) IN GENERAL.—Paragraph (6) of section 408(d)
7 (relating to transfers incident to divorce) is amended by—

8 (1) striking “his spouse or former spouse under
9 a divorce or separation instrument described in sub-
10 paragraph (A) of section 71(b)(2)” and inserting
11 “his spouse (or his former spouse under a divorce or
12 separation instrument described in subparagraph
13 (A) of section 71(b)(2))”, and

14 (2) striking the heading and inserting “TRANS-
15 FER OF ACCOUNT TO SPOUSE OR FORMER
16 SPOUSE.—”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to years beginning after the date
19 of the enactment of this Act.

20 **SEC. 302. FASTER VESTING OF EMPLOYER NONELECTIVE**
21 **CONTRIBUTIONS.**

22 (a) AMENDMENTS TO THE INTERNAL REVENUE
23 CODE OF 1986.—



1 (1) IN GENERAL.—Paragraph (2) of section
 2 411(a) (relating to employer contributions) is
 3 amended to read as follows:

4 “(2) EMPLOYER CONTRIBUTIONS.—

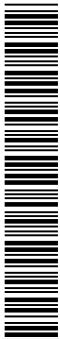
5 “(A) DEFINED BENEFIT PLANS.—

6 “(i) IN GENERAL.—In the case of a
 7 defined benefit plan, a plan satisfies the
 8 requirements of this paragraph if it satis-
 9 fies the requirements of clause (ii) or (iii).

10 “(ii) 5-YEAR VESTING.—A plan satis-
 11 fies the requirements of this clause if an
 12 employee who has completed at least 5
 13 years of service has a nonforfeitable right
 14 to 100 percent of the employee’s accrued
 15 benefit derived from employer contribu-
 16 tions.

17 “(iii) 3 TO 7 YEAR VESTING.—A plan
 18 satisfies the requirements of this clause if
 19 an employee has a nonforfeitable right to
 20 a percentage of the employee’s accrued
 21 benefit derived from employer contribu-
 22 tions determined under the following table:

| “Years of service: | The nonforfeitable percentage is: |
|--------------------|--------------------------------------|
| 3 | 20 |
| 4 | 40 |
| 5 | 60 |
| 6 | 80 |
| 7 or more | 100. |



1 “(B) DEFINED CONTRIBUTION PLANS.—

2 “(i) IN GENERAL.—In the case of a
3 defined contribution plan, a plan satisfies
4 the requirements of this paragraph if it
5 satisfies the requirements of clause (ii) or
6 (iii).

7 “(ii) 3-YEAR VESTING.—A plan satis-
8 fies the requirements of this clause if an
9 employee who has completed at least 3
10 years of service has a nonforfeitable right
11 to 100 percent of the employee’s accrued
12 benefit derived from employer contribu-
13 tions.

14 “(iii) 2 TO 6 YEAR VESTING.—A plan
15 satisfies the requirements of this clause if
16 an employee has a nonforfeitable right to
17 a percentage of the employee’s accrued
18 benefit derived from employer contribu-
19 tions determined under the following table:

| “Years of service: | The nonforfeitable percentage is: |
|--------------------|--------------------------------------|
| 2 | 20 |
| 3 | 40 |
| 4 | 60 |
| 5 | 80 |
| 6 | 100.”. |



1 (2) CONFORMING AMENDMENT.—Section
 2 411(a) (relating to general rule for minimum vesting
 3 standards) is amended by striking paragraph (12).
 4 (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT
 5 INCOME SECURITY ACT OF 1974.—

6 (1) IN GENERAL.—Paragraph (2) of section
 7 203(a) of the Employee Retirement Income Security
 8 Act of 1974 (29 U.S.C. 1053(a)(2)) is amended to
 9 read as follows:

10 “(2)(A)(i) In the case of a defined benefit plan,
 11 a plan satisfies the requirements of this paragraph
 12 if it satisfies the requirements of clause (ii) or (iii).

13 “(ii) A plan satisfies the requirements of this
 14 clause if an employee who has completed at least 5
 15 years of service has a nonforfeitable right to 100
 16 percent of the employee’s accrued benefit derived
 17 from employer contributions.

18 “(iii) A plan satisfies the requirements of this
 19 clause if an employee has a nonforfeitable right to
 20 a percentage of the employee’s accrued benefit de-
 21 rived from employer contributions determined under
 22 the following table:

| “Years of service: | The nonforfeitable percentage is: |
|--------------------|--------------------------------------|
| 3 | 20 |
| 4 | 40 |
| 5 | 60 |
| 6 | 80 |
| 7 or more | 100. |

1 “(B)(i) In the case of an individual account
2 plan, a plan satisfies the requirements of this para-
3 graph if it satisfies the requirements of clause (ii) or
4 (iii).

5 “(ii) A plan satisfies the requirements of this
6 clause if an employee who has completed at least 3
7 years of service has a nonforfeitable right to 100
8 percent of the employee’s accrued benefit derived
9 from employer contributions.

10 “(iii) A plan satisfies the requirements of this
11 clause if an employee has a nonforfeitable right to
12 a percentage of the employee’s accrued benefit de-
13 rived from employer contributions determined under
14 the following table:

| “Years of service: | The nonforfeitable percentage is: |
|---------------------------|--|
| 2 | 20 |
| 3 | 40 |
| 4 | 60 |
| 5 | 80 |
| 6 | 100.”. |

15 (2) CONFORMING AMENDMENT.—Section
16 203(a) of such Act is amended by striking para-
17 graph (4).

18 (c) EFFECTIVE DATES.—

19 (1) IN GENERAL.—Except as provided in para-
20 graph (2), the amendments made by this section
21 shall apply to contributions for plan years beginning
22 after December 31, 2003.



1 (2) COLLECTIVE BARGAINING AGREEMENTS.—

2 In the case of a plan maintained pursuant to one or
3 more collective bargaining agreements between em-
4 ployee representatives and one or more employers
5 ratified by the date of the enactment of this Act, the
6 amendments made by this section shall not apply to
7 contributions on behalf of employees covered by any
8 such agreement for plan years beginning before the
9 earlier of—

10 (A) the later of—

11 (i) the date on which the last of such
12 collective bargaining agreements termi-
13 nates (determined without regard to any
14 extension thereof on or after such date of
15 the enactment); or

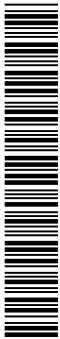
16 (ii) January 1, 2004; or

17 (B) January 1, 2008.

18 (3) SERVICE REQUIRED.—With respect to any
19 plan, the amendments made by this section shall not
20 apply to any employee before the date that such em-
21 ployee has 1 hour of service under such plan in any
22 plan year to which the amendments made by this
23 section apply.

24 **SEC. 303. ROLLOVERS BY NONSPOUSE BENEFICIARIES.**

25 (a) IN GENERAL.—



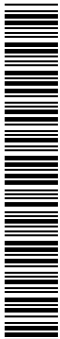
1 (1) QUALIFIED PLANS.—Section 402(c) (relat-
2 ing to rollovers from exempt trusts) is amended by
3 adding at the end the following new paragraph:

4 “(11) ROLLOVER WHERE NONSPOUSE BENE-
5 FICIARY RECEIVES DISTRIBUTION AFTER DEATH OF
6 EMPLOYEE.—

7 “(A) IN GENERAL.—If any distribution at-
8 tributable to an employee is paid to a des-
9 ignated beneficiary (as defined by section
10 401(a)(9)(E)) other than the surviving spouse
11 of the employee after the employee’s death, the
12 preceding provisions of this subsection shall
13 apply to such distribution in the same manner
14 as if the designated beneficiary were the em-
15 ployee, except that only a plan described in
16 clause (i) or (ii) of paragraph (8)(B) that is es-
17 tablished in the name of the employee for the
18 benefit of the designated beneficiary shall be
19 treated as an eligible retirement plan with re-
20 spect to such distribution.

21 “(B) SPECIAL RULES.—

22 “(i) DEATH OF EMPLOYEE BEFORE
23 ENTIRE INTEREST DISTRIBUTED.—An eli-
24 gible retirement plan that receives a trans-
25 fer described in this paragraph shall, with

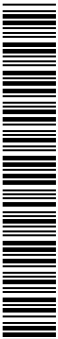


1 respect to amounts attributable to such
2 transferred amount, be subject to rules
3 similar to clauses (ii) and (iii) of section
4 401(a)(9)(B).

5 “(ii) DISTRIBUTIONS ATTRIBUTED TO
6 EMPLOYEE.—For purposes of this sub-
7 section, any distribution from the eligible
8 retirement plan of amounts attributable to
9 such transferred amount shall be treated
10 as a distribution attributable to the em-
11 ployee, not as a distribution attributable to
12 the designated beneficiary.

13 “(iii) CERTAIN TRUSTS TREATED AS
14 BENEFICIARIES.—For purposes of this
15 paragraph, to the extent provided in rules
16 prescribed by the Secretary, a trust main-
17 tained for the benefit of one or more des-
18 ignated beneficiaries shall be treated in the
19 same manner as a designated bene-
20 ficiary.”.

21 (2) SECTION 403(a) PLANS.—Subparagraph (B)
22 of section 403(a)(4) (relating to rollover amounts) is
23 further amended by striking “and (9)” and inserting
24 “, (9), and (11)”.



1 (3) SECTION 403(b) PLANS.—Subparagraph (B)
2 of section 403(b)(8) (relating to rollover amounts) is
3 amended by striking “and (9)” and inserting “, (9),
4 and (11)”.

5 (4) SECTION 457 PLANS.—Subparagraph (B) of
6 section 457(e)(16) (relating to rollover amounts) is
7 amended by striking “and (9)” and inserting “, (9),
8 and (11)”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to distributions after December 31,
11 2003.

12 **SEC. 304. ALLOW DIRECT ROLLOVERS FROM RETIREMENT**
13 **PLANS TO ROTH IRAS.**

14 (a) IN GENERAL.—Subsection (e) of section 408A
15 (defining qualified rollover contribution) is amended to
16 read as follows:

17 “(e) QUALIFIED ROLLOVER CONTRIBUTION.—For
18 purposes of this section, the term ‘qualified rollover con-
19 tribution’ means a rollover contribution—

20 “(1) to a Roth IRA from another such account,

21 “(2) from an eligible retirement plan, but only

22 if—

23 “(A) in the case of an individual retire-
24 ment plan, such rollover contribution meets the
25 requirements of section 408(d)(3), and



1 “(B) in the case of any eligible retirement
2 plan (as defined in section 402(c)(8)(B) other
3 than clauses (i) and (ii) thereof), such rollover
4 contribution meets the requirements of section
5 402(c), 403(b)(8), or 457(e)(16), as applicable.
6 For purposes of section 408(d)(3)(B), there shall be dis-
7 regarded any qualified rollover contribution from an indi-
8 vidual retirement plan (other than a Roth IRA) to a Roth
9 IRA.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 408A(c)(3)(B) is amended—

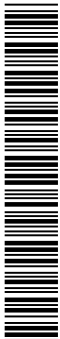
12 (A) in the text by striking “individual re-
13 tirement plan” and inserting “an eligible retire-
14 ment plan (as defined by section
15 402(c)(8)(B))”, and

16 (B) in the heading by striking “IRA” and
17 inserting “ELIGIBLE RETIREMENT PLAN”.

18 (2) Section 408A(d)(3) is amended—

19 (A) in subparagraph (A) by striking “sec-
20 tion 408(d)(3)” inserting “sections 402(c),
21 403(b)(8), 408(d)(3), and 457(e)(16)”,

22 (B) in subparagraph (B) by striking “indi-
23 vidual retirement plan” and inserting “eligible
24 retirement plan (as defined by section
25 402(c)(8)(B))”,



1 (C) in subparagraph (D) by striking “or
2 6047” after “408(i)”,

3 (D) in subparagraph (D) by striking “or
4 both” and inserting “persons subject to section
5 6047(d)(1), or all of the foregoing persons”,
6 and

7 (E) in the heading by striking “IRA” and
8 inserting “ELIGIBLE RETIREMENT PLAN”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to distributions after December 31,
11 2003.

12 **SEC. 305. EXCLUSION OF PERCENTAGE OF LIFETIME ANNU-**
13 **ITY PAYMENTS.**

14 (a) IN GENERAL.—

15 (1) QUALIFIED PLANS.—Subsection (e) of sec-
16 tion 402 (relating to exempt trusts) is amended by
17 adding at the end the following new paragraph:

18 “(7) EXCLUSION OF PERCENTAGE OF LIFETIME
19 ANNUITY PAYMENTS.—

20 “(A) IN GENERAL.—In the case of a life-
21 time annuity payment from a qualified trust
22 (within the meaning of subsection (c)(8)(A)) to
23 a qualified distributee, gross income shall not
24 include the applicable percentage of the amount



1 otherwise includible in gross income (deter-
 2 mined without regard to this paragraph).

3 “(B) APPLICABLE PERCENTAGE.—For
 4 purposes of subparagraph (A), applicable per-
 5 centage shall be determined in accordance with
 6 the following table:

| “For taxable years beginning in calendar year— | The applicable percentage is— |
|---|--|
| 2004, 2005, 2006, and 2007 | 5 |
| 2008 and thereafter | 10. |

7 “(C) LIMITATION.—With respect to any
 8 qualified distributee, subparagraph (A) shall
 9 not apply to any lifetime annuity payment to
 10 the extent that such payments, when added to
 11 all previous payments under such annuity to
 12 such qualified distributee during the taxable
 13 year, exceed 50 percent of the applicable
 14 amount for such year under section
 15 415(c)(1)(A). For purposes of this subpara-
 16 graph, all lifetime annuity payments received by
 17 a qualified distributee shall be taken into ac-
 18 count to the extent that such payments are sub-
 19 ject to this paragraph or to rules similar to the
 20 rules of this paragraph.

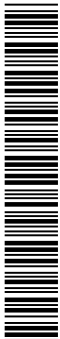
21 “(D) DEFINITIONS.—For purposes of this
 22 paragraph—

23 “(i) LIFETIME ANNUITY PAYMENT.—



1 “(I) IN GENERAL.—The term
2 ‘lifetime annuity payment’ means a
3 distribution which is a part of a series
4 of substantially equal periodic pay-
5 ments (made not less frequently than
6 annually) made over the life of the
7 qualified distributee or the joint lives
8 of the qualified distributee and the
9 qualified distributee’s designated ben-
10 eficiary.

11 “(II) EXCEPTIONS.—Annuity
12 payments shall not fail to be treated
13 as part of a series of substantially
14 equal periodic payments because the
15 amount of the periodic payments may
16 vary in accordance with investment
17 experience, reallocations among in-
18 vestment options, actuarial gains or
19 losses, cost of living indices, or similar
20 fluctuating criteria. The availability of
21 a commutation benefit, a minimum
22 period of payments certain, or a min-
23 imum amount to be paid in any event
24 shall not affect the treatment of a dis-
25 tribution as a lifetime annuity pay-



1 ment. In the case of lifetime annuity
2 payments being made to a qualified
3 trust, payments by the qualified trust
4 to a qualified distributee of the entire
5 amount received by the qualified trust
6 with respect to the qualified dis-
7 tributee shall constitute lifetime annu-
8 ity payments.

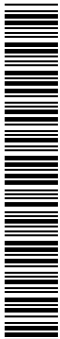
9 “(ii) QUALIFIED DISTRIBUTE.—The
10 term ‘qualified distributee’ means the em-
11 ployee, the surviving spouse of the em-
12 ployee, and an alternate payee who is the
13 spouse or former spouse of the employee.

14 “(E) RECAPTURE TAX.—

15 “(i) IN GENERAL.—If—

16 “(I) the applicable percentage of
17 a lifetime annuity payment is not in-
18 cludible in gross income by reason of
19 subparagraph (A), and

20 “(II) the series of payments of
21 which such payment is a part is sub-
22 sequently modified (other than by rea-
23 son of death or disability) so that
24 some or all future payments are not
25 lifetime annuity payments,

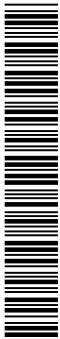


1 the qualified distributee's gross income for
2 the first taxable year in which such modi-
3 fication occurs shall be increased by an
4 amount, determined under rules prescribed
5 by the Secretary, equal to the amount
6 which (but for subparagraph (A)) would
7 have been includible in the qualified
8 distributee's gross income if the modifica-
9 tion had been in effect at all times, plus in-
10 terest for the deferral period.

11 “(ii) DEFERRAL PERIOD.—For pur-
12 poses of this subparagraph, the term ‘de-
13 ferral period’ means the period beginning
14 with the taxable year in which (without re-
15 gard to subparagraph (A)) the payment
16 would have been includible in gross income
17 and ending with the taxable year in which
18 the modification described in clause (i)(II)
19 occurs.

20 “(F) PHASE-OUT OF EXCLUSION.—

21 “(i) IN GENERAL.—In any taxable
22 year, the exclusion from gross income for
23 any qualified distributee under this para-
24 graph and under rules similar to the rules



1 of this paragraph shall not exceed the in-
2 come-adjusted limit.

3 “(ii) INCOME-ADJUSTED LIMIT.—For
4 purposes of this subparagraph, the income-
5 adjusted limit shall be—

6 “(I) the product of the applicable
7 percentage described in subparagraph
8 (B) and the limitation described in
9 subparagraph (C), reduced (but not
10 below zero) by

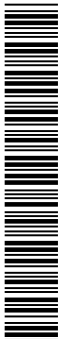
11 “(II) the amount determined
12 under clause (iii).

13 “(iii) AMOUNT DETERMINED.—The
14 amount determined under this clause shall
15 be the amount which bears the same ratio
16 to the amount described in clause (ii)(I)
17 as—

18 “(I) the excess of the taxpayer’s
19 adjusted gross income for such tax-
20 able year over the applicable dollar
21 amount, bears to

22 “(II) \$15,000 (\$30,000 for a
23 joint return).

24 “(iv) LIMITATION ON REDUCTION.—
25 The income-adjusted limit shall not be re-



1 duced below \$200 by clause (ii)(II) unless
2 (without regard to this clause) such limit is
3 reduced to zero.

4 “(v) ROUNDING RULE.—Any income-
5 adjusted limit determined under this sub-
6 paragraph which is not a multiple of \$10
7 shall be rounded to the next lowest mul-
8 tiple of \$10.

9 “(vi) ADJUSTED GROSS INCOME.—For
10 purposes of this subparagraph, adjusted
11 gross income of any taxpayer shall be de-
12 termined in the same manner as under sec-
13 tion 408A(c)(3)(C)(i) except that section
14 408A(c)(3)(C)(i)(II) shall not apply for
15 this purpose.

16 “(vii) APPLICABLE DOLLAR LIMIT.—
17 For purposes of this subparagraph, the ap-
18 plicable dollar amount is—

19 “(I) in the case of a taxpayer fil-
20 ing a joint return, \$150,000,

21 “(II) in the case of any other
22 taxpayer (other than a married indi-
23 vidual filing a separate return),
24 \$75,000, and



1 “(III) in the case of a married
2 individual filing a separate return,
3 zero.

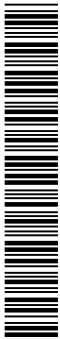
4 “(viii) SPECIAL RULE FOR MARRIED
5 INDIVIDUALS FILING SEPARATELY AND
6 LIVING APART.—Section 219(g)(4) shall
7 apply for purposes of this subparagraph.”.

8 (2) SECTION 403(A) PLANS.—Paragraph (4) of
9 section 403(a) (relating to qualified annuity plans)
10 is amended by adding at the end the following new
11 subparagraph:

12 “(C) EXCLUSION OF PERCENTAGE OF
13 LIFETIME ANNUITY PAYMENTS.—Rules similar
14 to the rules of section 402(e)(7) shall apply to
15 distributions under any annuity contract to
16 which this subsection applies.”.

17 (3) SECTION 403(B) PLANS.—Section 403(b)
18 (relating to purchased annuities) is amended by add-
19 ing at the end the following new paragraph:

20 “(14) EXCLUSION OF PERCENTAGE OF LIFE-
21 TIME ANNUITY PAYMENTS.—Rules similar to the
22 rules of section 402(e)(7) shall apply to distributions
23 under any annuity contract or custodial account to
24 which this subsection applies.”.



1 (4) IRAs.—Section 408(d) (relating to tax
2 treatment of distributions) is amended by adding at
3 the end the following new paragraph:

4 “(8) EXCLUSION OF PERCENTAGE OF LIFETIME
5 ANNUITY PAYMENTS.—Rules similar to the rules of
6 section 402(e)(7) shall apply to distributions out of
7 an individual retirement plan.”.

8 (5) SECTION 457 PLANS.—Section 457(e) (relat-
9 ing to special rules for deferred compensation plans)
10 is amended by adding at the end the following new
11 paragraph:

12 “(18) EXCLUSION OF PERCENTAGE OF LIFE-
13 TIME ANNUITY PAYMENTS.—Rules similar to the
14 rules of section 402(e)(7) shall apply to distributions
15 from an eligible deferred compensation plan of an el-
16 igible employer described in subsection (e)(1)(A).”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to distributions made after Decem-
19 ber 31, 2003.

20 **SEC. 306. ROLLOVER OF AFTER-TAX AMOUNTS IN ANNUITY**
21 **CONTRACTS.**

22 (a) IN GENERAL.—Subparagraph (A) of section
23 402(c)(2) (maximum amount which may be rolled over)
24 is amended by striking “and which” and inserting “or to



1 an annuity contract described in section 403(b) and such
2 plan or contract”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to taxable years beginning after
5 December 31, 2003.

6 **SEC. 307. FAIR TREATMENT UNDER SUBSTANTIALLY**
7 **EQUAL PERIODIC PAYMENTS RULE.**

8 (a) IN GENERAL.—Paragraph (4) of section 72(t)
9 (relating to change in substantially equal payments) is
10 amended by inserting at the end the following new sub-
11 paragraphs:

12 “(C) CHANGE IN PERMISSIBLE METH-
13 ODS.—If—

14 “(i) the taxpayer changes from one
15 permissible method of determining sub-
16 stantially equal periodic payments to an-
17 other permissible method for purposes of
18 such determination, and

19 “(ii) such change results in an initial
20 reduction in the amount of payments re-
21 quired to be made,

22 such change shall not be treated as a modifica-
23 tion under subparagraph (A)(ii).

24 “(D) ROLLOVERS TO SUBSEQUENT
25 PLAN.—If—



1 “(i) payments satisfying paragraph
2 (2)(A)(iv) are being made from a qualified
3 retirement plan,

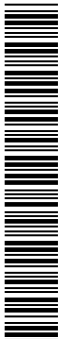
4 “(ii) a transfer or a rollover from the
5 qualified retirement plan is made to an-
6 other qualified retirement plan of all or a
7 portion of the taxpayer’s benefit under the
8 transferor plan, and

9 “(iii) distributions from the transferor
10 and transferee plans would in combination
11 continue to satisfy paragraph (2)(A)(iv) if
12 made only from the transferor plan,

13 such transfer or rollover shall not be treated as
14 a modification under subparagraph (A)(ii) and
15 compliance with paragraph (2)(A)(iv) shall be
16 determined on the basis of the combined dis-
17 tributions described in clause (iii).

18 “(E) INTEREST RATE.—Any reasonable in-
19 terest rate may be used in determining whether
20 payments are substantially equal under para-
21 graph (2)(A)(iv).”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to any series of payments com-
24 mencing on or after the date of enactment of this Act.



1 **SEC. 308. TREATMENT OF SUBSEQUENT QUALIFIED DOMES-**
2 **TIC RELATIONS ORDERS.**

3 (a) AMENDMENT TO ERISA.—Section 206(d)(3)(B)
4 of the Employee Retirement Income Security Act of 1974
5 (29 U.S.C. 1056(d)(3)(B)) is amended by adding at the
6 end of the following flush sentence: “A domestic relations
7 order otherwise meeting the requirements to be treated as
8 a qualified domestic relations order shall not fail to be so
9 treated solely because it is issued after, or revises, another
10 qualified domestic relations order, but only with respect
11 to amounts payable after the date the order is determined
12 to be qualified.”.

13 (b) AMENDMENT TO INTERNAL REVENUE CODE.—
14 Section 414(p)(1)(A) is amended by adding at the end the
15 following flush sentence: “A domestic relations order oth-
16 erwise meeting the requirements to be treated as a quali-
17 fied domestic relations order shall not fail to be so treated
18 solely because it is issued after, or revises, another quali-
19 fied domestic relations order, but only with respect to
20 amounts payable after the date the order is determined
21 to be qualified.”.

22 (c) EFFECTIVE DATE.—

23 (1) IN GENERAL.—The amendments made by
24 this section shall apply to transfers made after De-
25 cember 31, 2003.



1 (2) PRIOR TRANSFERS.—Transfers made prior
2 to January 1, 2004 under qualified domestic rela-
3 tions orders that were issued after, or that revised,
4 a prior qualified domestic relations order shall not
5 be deemed invalid by reason of the amendments
6 made by this section.

7 **SEC. 309. TREATMENT OF DELAYED QUALIFIED DOMESTIC**
8 **RELATIONS ORDERS.**

9 (a) AMENDMENT TO ERISA.—Section 206(d)(3)(B)
10 of the Employee Retirement Income Security Act of 1974
11 (29 U.S.C. 1056(d)(3)) (as amended by this Act) is
12 amended by adding at the end the following flush sen-
13 tence: “A domestic relations order otherwise meeting the
14 requirements to be treated as a qualified domestic rela-
15 tions order shall not fail to be to be treated (subject to
16 subparagraph (H)) solely because of the time at which it
17 is issued.”.

18 (b) AMENDMENT TO INTERNAL REVENUE CODE.—
19 Section 414(p)(1)(A) (as amended by this Act) is amended
20 by adding at the end the following flush sentence: “A do-
21 mestic relations order otherwise meeting the requirements
22 to be treated as a qualified domestic relations order shall
23 not fail to be so treated (subject to paragraph (7)) solely
24 because of the time at which it is issued.”.

25 (c) EFFECTIVE DATE.—



1 (1) IN GENERAL.—The amendments made by
2 this section apply to transfers made after December
3 31, 2003.

4 (2) PRIOR ORDERS.—Transfers made prior to
5 January 1, 2004 under qualified domestic relations
6 orders that were issued subsequent to the events giv-
7 ing rise to such orders shall not be deemed invalid
8 by reason of the amendments made by this section.

9 **SEC. 310. TREATMENT OF ANNUITY CONTRACTS.**

10 (a) IN GENERAL.—Clause (i) of section 402(e)(4)(D)
11 is amended by adding after “section 401(c)(1).” the fol-
12 lowing: “A distribution of an annuity contract from a trust
13 or annuity plan referred to in the first sentence of this
14 clause may be treated as a part of a lump sum distribu-
15 tion.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall take effect as if included in section
18 1401(b)(1) of the Small Business Job Protection Act of
19 1996.

20 **SEC. 311. PRESERVATION OF PENSION PLANS.**

21 (a) Section 1612 of the Social Security Act is
22 amended—

23 (1) in subsection (b)—

24 (A) in paragraph (21), by striking “; and”
25 and inserting “;”;



1 (B) by striking the period at the end of
2 paragraph (22) and inserting “; and”;

3 (C) by adding at the end the following
4 paragraph:

5 “(23) except as otherwise provided in this para-
6 graph, retirement benefits to which the individual is
7 or may become entitled, including any balances cred-
8 ited to the individual’s account and any other ac-
9 crued benefits, under a qualifying retirement plan.”;
10 and

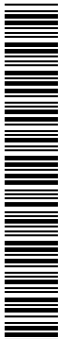
11 (2) adding at the end the following new sub-
12 section:

13 “RULES RELATING TO QUALIFIED RETIREMENT PLANS

14 “(c)(1) For purposes of subsection (b)(23), a quali-
15 fying retirement plan is a qualified retirement plan as de-
16 fined in section 4974(c) of the Internal Revenue Code of
17 1986, an eligible deferred compensation plan under section
18 457(b) of such Code, or a trust as described in section
19 501(c)(18) of such Code.

20 “(2) Subsection (b)(23) shall not require the Com-
21 missioner to exclude the aggregate value of qualifying re-
22 tirement plan balances of an individual to the extent they
23 exceed \$75,000.

24 “(3) Except as provided in paragraph (4), in the case
25 of an individual who has attained the age specified in sec-
26 tion 72(t)(2)(A)(i) of the Internal Revenue Code of 1986,



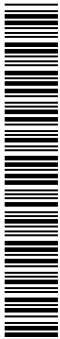
1 subsection (b)(23) shall not require the Commissioner to
2 exclude an amount up to the monthly annuity value of the
3 current aggregate value of qualifying retirement plan bal-
4 ances of the individual as determined under a schedule
5 issued by the Commissioner.

6 “(4) Upon determining that an applicant for
7 orrecipient of benefits has attained the age specified in
8 section 72(t)(2)(A)(i) of the Internal Revenue Code of
9 1986 and is entitled to benefits under a qualifying retire-
10 ment plan, the Commissioner shall—

11 “(A) notify the applicant or recipient of the
12 provisions of this subsection and of the importance
13 of obtaining competent financial advice on the possi-
14 bility of converting the value of the plan into an an-
15 nuity;

16 “(B) continue to exclude the value of the quali-
17 fying retirement plan without regard to paragraph
18 (3) for a period of one year following the provision
19 of the notice specified in subparagraph (A).

20 “(C) after the period specified in subparagraph
21 (B), not count as monthly income more than the
22 monthly annuity value of any current balance of the
23 qualifying retirement plan as determined under a
24 schedule issued by the Commissioner.



1 “(5) Nothing in subsection (b)(23) shall be construed
2 to authorize or require any benefits to be reduced or de-
3 nied to any individual because of a qualifying retirement
4 plan (including defined benefit retirement plans) whose
5 consideration is excluded under any other provision of
6 law.”.

7 (b) Section 1613 of the Social Security Act is
8 amended—

9 (1) in subsection (a)—

10 (A) in paragraph (12), by striking “; and”
11 and inserting “;”;

12 (B) by striking the period at the end of
13 paragraph (13) and inserting “; and”; and

14 (C) by adding after paragraph (13) the fol-
15 lowing paragraph:

16 “(14) benefits to which the individual is or may
17 become entitled, including any balances credited to
18 the individual’s account and any other accrued bene-
19 fits, qualifying retirement plan.”; and

20 (2) by adding at the end the following new sub-
21 section:

22 “RULES RELATING TO QUALIFIED RETIREMENT PLANS

23 “(f)(1) For purposes of subsection (a)(14) a quali-
24 fying retirement plan is a qualified retirement plan as de-
25 fined in section 4974(c) of the Internal Revenue Code of
26 1986, an eligible deferred compensation plan under section



1 457(b) of such Code, or a trust as described in section
2 501(c)(18) of such Code.

3 “(2) Subsection (a)(14) shall not require the Com-
4 missioner to exclude—

5 “(A) funds that have been distributed from a
6 qualifying retirement plan; or

7 “(B) the value of a qualifying retirement plan
8 to the extent the aggregate value of qualifying re-
9 tirement plan balances of an individual exceed
10 \$75,000.

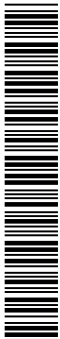
11 “(3) Nothing in subsection (a)(14) shall be construed
12 to authorize or require any benefits to be reduced or de-
13 nied to any individual because of a qualifying retirement
14 plan (including defined benefit retirement plans) whose
15 consideration is excluded under any other provision of
16 law.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply as of the date of enactment of this
19 Act.

20 **SEC. 312. CERTAIN PLAN TRANSERS AND MERGERS.**

21 (a) AMENDMENT TO THE INTERNAL REVENUE CODE
22 OF 1986.—Section 414 (relating to definitions and special
23 rules) (as amended by this Act) is amended by adding at
24 the end the following new subsection:

25 “(z) CERTAIN PLAN TRANSFERS AND MERGERS.—



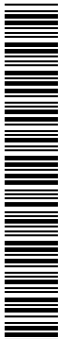
1 “(1) IN GENERAL.—Under rules prescribed by
2 the Secretary, no amount shall be includible in gross
3 income by reason of—

4 “(A) a transfer of all or a portion of the
5 account balance of a participant or beneficiary,
6 whether or not vested, from a defined contribu-
7 tion plan described in section 401(a) or section
8 403(a) to an annuity contract described in sec-
9 tion 403(b),

10 “(B) a transfer of all or a portion of the
11 account balance of a participant or beneficiary,
12 whether or not vested, from an annuity contract
13 described in section 403(b) to a defined con-
14 tribution plan described in section 401(a) or
15 section 403(a), or

16 “(C) a merger of a defined contribution
17 plan described in section 401(a) or section
18 403(a) with an annuity contract described in
19 section 403(b),

20 so long as the transfer or merger does not cause a
21 reduction in the vested benefit or total benefit (in-
22 cluding non-vested benefit) of any participant or
23 beneficiary. A plan or contract shall not fail to be
24 considered to be described in sections 401(a),
25 403(a), or 403(b) (as applicable) merely because



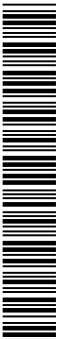
1 such plan or contract engages in a transfer or merg-
2 er described in this paragraph.

3 “(2) DISTRIBUTIONS.—Except to the extent
4 provided in paragraphs (3) and (4), amounts trans-
5 ferred or merged pursuant to paragraph (1) shall be
6 distributed solely in accordance with the terms of
7 the transferee or merged plan.

8 “(3) SPOUSAL CONSENT AND ANTI-CUTBACK
9 PROTECTION.—In the case of a transfer or merger
10 described in paragraph (1), amounts in the trans-
11 feree or merged plan that are attributable to the
12 transferor or predecessor plan shall—

13 “(A)(i) be treated in the same manner as
14 amounts in a plan to which section 401(a)(11)
15 or section 205 of the Employee Retirement In-
16 come Security Act of 1974 applies to the extent
17 that such sections applied to such amounts in
18 the transferor or predecessor plan, or

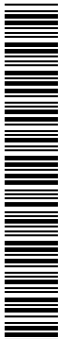
19 “(ii) be required to satisfy the require-
20 ments of section 401(a)(11)(B)(iii)(I) or section
21 205(b)(1)(C)(i) of the Employee Retirement In-
22 come Security Act of 1974 to the extent that
23 such section applied to such amounts in the
24 transferor or predecessor plan, and



1 “(B) be treated as subject to section
2 411(d)(6) and section 204(g) of the Employee
3 Retirement Income Security Act of 1974 to the
4 extent that such amounts were subject to such
5 sections in the transferor or predecessor plan.

6 “(4) SPECIAL RULES.—Under rules prescribed
7 by the Secretary, to the extent amounts transferred
8 or merged pursuant to paragraph (1) were otherwise
9 entitled to grandfather treatment under the trans-
10 feror or predecessor plan, such amounts (and income
11 or loss attributable thereto) shall remain entitled to
12 such treatment under the transferee or merged plan.
13 The rules prescribed by the Secretary shall require
14 that such amounts be separately accounted for by
15 the transferee or merged plan. For purposes of this
16 paragraph, ‘grandfather treatment’ shall mean spe-
17 cial treatment under the Internal Revenue Code of
18 1986 or the Employee Retirement Income Security
19 Act of 1974 that is provided for prior benefits, prior
20 periods of time, or certain individuals in connection
21 with a change in the applicable law.

22 “(5) CONSENT.—In the case of an annuity con-
23 tract described in section 403(b) with respect to
24 which transfers may be made only with the consent
25 of a participant or beneficiary pursuant to the terms



1 of such contract or pursuant to applicable law, a
2 transfer from such contract pursuant to paragraph
3 (1) may be made only if such participant or bene-
4 ficiary consents to such transfer. For purposes of
5 this paragraph, a merger of an annuity contract de-
6 scribed in section 403(b) with a plan described in
7 section 401(a) or 403(a) shall be treated as a trans-
8 fer from the predecessor plan or contract to the
9 merged plan or contract. Nothing in this subsection
10 shall affect the application of contract or plan terms
11 otherwise applicable in the case of a withdrawal
12 from the contract or plan.”.

13 (b) AMENDMENT TO THE EMPLOYEE RETIREMENT
14 INCOME SECURITY ACT OF 1974.—Section 4 of the Em-
15 ployee Retirement Income Security Act of 1974 (29
16 U.S.C. 1003) is amended by adding at the end the fol-
17 lowing new subsection:

18 “(d) This title shall apply to any plan or contract de-
19 scribed in section 414(z) of the Internal Revenue Code of
20 1986 to the extent necessary to comply with the require-
21 ments of such section. Transfers or mergers permitted
22 under such section shall be treated as satisfying the re-
23 quirements of this title.”.

24 (c) EFFECTIVE DATE.—



(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after the Secretary of the Treasury prescribes rules under section 414(z) of the Internal Revenue Code of 1986.

(2) RULES.—The Secretary of the Treasury shall issue rules under section 414(z) of the Internal Code of 1986 within 1 year after the date of enactment of this Act.

TITLE IV—INCREASING RETIREMENT PLAN PARTICIPATION AND SAVINGS

SEC. 401. EXPANSION OF THE SAVER'S CREDIT.

(a) IN GENERAL.—The table contained in subsection (b) of section 25B (relating to applicable percentage) is amended to read as follows:

| “Adjusted Gross Income | | | | | | Applicable per- centage |
|------------------------|----------|---------------------|----------|-----------------|----------|----------------------------|
| Joint return | | Head of a household | | All other cases | | |
| Over | Not over | Over | Not over | Over | Not over | |
| | \$30,000 | | \$22,500 | | \$15,000 | 55 |
| 30,000 | 40,000 | 22,500 | 30,000 | 15,000 | 20,000 | 25 |
| 40,000 | 50,000 | 30,000 | 37,500 | 20,000 | 25,000 | 20 |
| 50,000 | 60,000 | 37,500 | 45,000 | 25,000 | 30,000 | 10 |
| 60,000 | | 45,000 | | 30,000 | | 0” |

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 402. ACCELERATION OF SCHEDULED INCREASES IN PENSION PLAN CONTRIBUTION LIMITS.

(a) ELECTIVE DEFERRALS.—



1 (1) IN GENERAL.—Section 402(g)(1) (relating
2 to general rule for limitation on exclusion for elective
3 deferrals) is amended—

4 (A) in subparagraph (A) by striking “the
5 applicable dollar amount” and inserting
6 “\$15,000”,

7 (B) by striking subparagraph (B) and re-
8 designating subparagraph (C) as subparagraph
9 (B).

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 402(g)(1)(B) (as redesignated
12 by paragraph (1)) is amended by striking “ap-
13 plicable dollar amount under subparagraph
14 (B)” and inserting “amount in effect under
15 subparagraph (A)”.

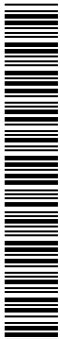
16 (B) Section 402(g)(4) is amended—

17 (i) by striking “2006” and inserting
18 “2004”,

19 (ii) by striking “paragraph (1)(B)”
20 and inserting “paragraph (1)(A)”, and

21 (iii) by striking “2005” and inserting
22 “2003”.

23 (b) DEFERRED COMPENSATION PLANS OF STATE
24 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-
25 ZATIONS.—



1 (1) IN GENERAL.—Subsection (b)(2)(A) of sec-
2 tion 457 (defining eligible deferred compensation
3 plan) is amended by striking “the applicable dollar
4 amount” and inserting “\$15,000”.

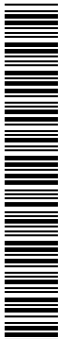
5 (2) CONFORMING AMENDMENT.—Paragraph
6 (15) of section 457(e) is amended to read as follows:

7 “(15) COST-OF-LIVING ADJUSTMENTS.—In the
8 case of taxable years beginning after December 31,
9 2003, the Secretary shall adjust the \$15,000
10 amount in subsection (b)(2)(A) at the same time
11 and in the same manner as under section 415(d),
12 except that the base period shall be the calendar
13 quarter beginning July 1, 2002, and any increase
14 under this paragraph which is not a multiple of
15 \$500 shall be rounded to the next lowest multiple of
16 \$500.”.

17 (c) SIMPLE RETIREMENT ACCOUNTS.—

18 (1) IN GENERAL.—Clause (ii) of section
19 408(p)(2)(A) (relating to general rule for qualified
20 salary reduction arrangement) is amended by strik-
21 ing “the applicable dollar amount” and inserting
22 “\$10,000”.

23 (2) CONFORMING AMENDMENT.—Subparagraph
24 (E) of section 408(p)(2) is amended to read as fol-
25 lows:



1 “(E) COST-OF-LIVING ADJUSTMENT.—In
2 the case of a year beginning after December 31,
3 2003, the Secretary shall adjust the \$10,000
4 amount in subparagraph (A)(ii) at the same
5 time and in the same manner as under section
6 415(d), except that the base period taken into
7 account shall be the calendar quarter beginning
8 July 1, 2002, and any increase under this sub-
9 paragraph which is not a multiple of \$500 shall
10 be rounded to the next lower multiple of
11 \$500.”.

12 (d) CATCH-UP CONTRIBUTIONS.—

13 (1) IN GENERAL.—Subparagraph (B) of section
14 414(v)(2) (relating to applicable dollar amount) is
15 amended—

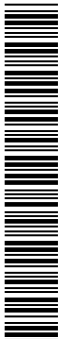
16 (A) in clause (i) by striking “shall be” and
17 all that follows and inserting “is \$5,000.”, and

18 (B) in clause (ii) by striking “shall be”
19 and all that follows and inserting “is \$2,500.”.

20 (2) CONFORMING AMENDMENTS.—Section
21 414(v)(2)(C) is amended—

22 (A) by striking “2006” and inserting
23 “2003”, and

24 (B) by striking “2005” and inserting
25 “2002”.



1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to years beginning after December
3 31, 2003.

4 **SEC. 403. REMOVING BARRIERS TO AUTOMATIC CONTRIBU-**
5 **TION TRUST ARRANGEMENTS.**

6 (a) IN GENERAL.—

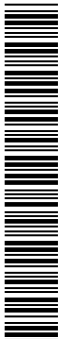
7 (1) CONTROL DEEMED TO HAVE BEEN EXER-
8 CISED WITH RESPECT TO AMOUNT OF AUTOMATIC
9 CONTRIBUTIONS.—Section 404(c) of the Employee
10 Retirement Income Security Act of 1974 (29 U.S.C.
11 1104(c)) (as amended by this Act) is amended by
12 adding at the end the following new paragraph:

13 “(5)(A) A participant in an individual account plan
14 shall, for purposes of paragraph (1), be treated as exer-
15 cising control over the assets in the account with respect
16 to the amount of contributions made under an automatic
17 contribution trust arrangement.

18 “(B) For purposes this paragraph, the term ‘auto-
19 matic contribution trust arrangement’ means an
20 arrangement—

21 “(i) which meets the requirements of subpara-
22 graph (C),

23 “(ii) under which a participant may elect to
24 have the employer make payments as contributions



1 to a trust under the plan on behalf of the partici-
2 pant, or to the participant directly in cash,

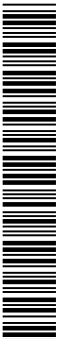
3 “(iii) under which the participant is treated as
4 having elected to have the employer make such con-
5 tributions in an amount equal to a uniform percent-
6 age of compensation provided under the plan until
7 the participant specifically elects not to have such
8 contributions made (or specifically elects to have
9 such contributions made at a different percentage),
10 and

11 “(iv) under which contributions described in
12 clause (iii) are invested in accordance with regula-
13 tions prescribed by the Secretary.

14 “(C)(i) The administrator of an individual account
15 plan shall, within a reasonable period before each plan
16 year, give to each employee to whom an automatic con-
17 tribution trust arrangement applies for such plan year no-
18 tice of the employee’s rights and obligations under the ar-
19 rangement which—

20 “(I) is sufficiently accurate and comprehensive
21 to appraise the employee of such rights and obliga-
22 tions, and

23 “(II) is written in a manner calculated to be
24 understood by the average employee to whom the ar-
25 rangement applies.



1 “(ii) A notice shall not be treated as meeting the re-
2 quirements of clause (i) with respect to an employee
3 unless—

4 “(I) the notice includes a notice explaining the
5 employee’s right under the arrangement to elect not
6 to have elective contributions made on the employ-
7 ee’s behalf (or to elect to have such contributions
8 made at a different percentage),

9 “(II) the employee has a reasonable period of
10 time after receipt of the notice described in sub-
11 clause (I) and before the first elective contribution
12 is made to make such election, and

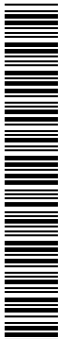
13 “(III) the notice explains how contributions
14 made under the arrangement will be invested in the
15 absence of any investment election by the em-
16 ployee.”.

17 (2) PREEMPTION OF CONFLICTING STATE REG-
18 ULATION.—Section 514(b) of such Act (29 U.S.C.
19 1144(b)) is amended—

20 (A) by redesignating paragraph (9) as
21 paragraph (10); and

22 (B) by inserting after paragraph (8) the
23 following new paragraph:

24 “(9) Any law of a State which would directly or indi-
25 rectly prohibit or restrict the inclusion in any plan of an



1 automatic contribution trust arrangement (as defined in
2 section 404(c)(4)(B)) shall be superseded. The Secretary
3 may prescribe regulations which would establish minimum
4 standards that such arrangements would be required to
5 satisfy in order for this paragraph to apply.”.

6 (b) EFFECTIVE DATE.—

7 (1) IN GENERAL.—The amendments made by
8 this section shall apply to plan years beginning after
9 December 31, 2003.

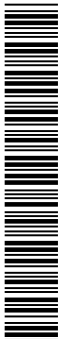
10 (2) REGULATIONS.—Final regulations under
11 section 404(c)(5)(B)(iv) of the Employee Retirement
12 Income Security Act of 1974 (added by this section)
13 shall be issued no later than 1 year after the date
14 of enactment of this Act.

15 **SEC. 404. DISPOSITION OF UNUSED HEALTH BENEFITS IN**
16 **CAFETERIA PLANS AND FLEXIBLE SPENDING**
17 **ARRANGEMENTS.**

18 (a) IN GENERAL.—Section 125 (relating to cafeteria
19 plans) is amended by redesignating subsections (h) and
20 (i) as subsections (i) and (j), respectively, and by inserting
21 after subsection (g) the following:

22 “(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH
23 BENEFITS.—

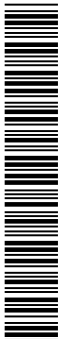
24 “(1) IN GENERAL.—For purposes of this title,
25 a plan or other arrangement shall not fail to be



1 treated as a cafeteria plan solely because qualified
2 benefits under such plan include a health flexible
3 spending arrangement under which not more than
4 \$500 of unused health benefits may be contributed
5 on behalf of an employee to a qualified retirement
6 plan (as defined in section 4974(c)) or an eligible
7 deferred compensation plan (as defined in section
8 457(b)).

9 “(2) CONTRIBUTION OF UNUSED HEALTH BEN-
10 EFITS ON BEHALF OF EMPLOYEE.—For purposes of
11 this title, contributions on behalf of an employee de-
12 scribed in paragraph (1) shall be treated as elective
13 contributions made pursuant to a choice by the em-
14 ployee between such contributions and compensation
15 which would otherwise be includible in the gross in-
16 come of the employee. Contributions described in
17 paragraph (1) shall be excluded from the gross in-
18 come of the employee, or included in the gross in-
19 come of the employee and allowed as a deduction by
20 the employee, to the extent that elective contribu-
21 tions would be treated in that manner under this
22 title.

23 “(3) HEALTH FLEXIBLE SPENDING ARRANGE-
24 MENT.—For purposes of this subsection, the term
25 ‘health flexible spending arrangement’ means a flexi-



1 ble spending arrangement (as defined in section
2 106(c)) that is a qualified benefit and only permits
3 reimbursement for expenses for medical care (as de-
4 fined in section 213(d)(1) (without regard to sub-
5 paragraphs (C) and (D) thereof).

6 “(4) UNUSED HEALTH BENEFITS.—For pur-
7 poses of this subsection, with respect to an em-
8 ployee, the term ‘unused health benefits’ means the
9 excess of—

10 “(A) the maximum amount of reimburse-
11 ment allowable to the employee during a plan
12 year under a health flexible spending arrange-
13 ment, taking into account any election by the
14 employee, over

15 “(B) the actual amount of reimbursement
16 during such year under such arrangement.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to taxable years beginning after
19 December 31, 2003.

20 **SEC. 405. UPDATING DEDUCTION RULES FOR COMBINA-**
21 **TION OF PLANS.**

22 (a) IN GENERAL.—Subparagraph (C) of section
23 404(a)(7) (relating to limitation on deductions where com-
24 bination of defined contribution plan and defined benefit

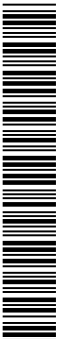


1 plan) is amended by adding after clause (ii) the following
2 new clause:

3 “(iii) In the case of employer con-
4 tributions to 1 or more defined contribu-
5 tion plans, this paragraph shall only apply
6 to the extent that such contributions (other
7 than elective deferrals (as defined in sec-
8 tion 402(g)(3)) exceed 6 percent of the
9 compensation otherwise paid or accrued
10 during the taxable year to the beneficiaries
11 under such plans. For purposes of this
12 clause, amounts carried over from pre-
13 ceding taxable years under subparagraph
14 (B) shall be treated as employer contribu-
15 tions to 1 or more defined contributions to
16 the extent attributable to employer con-
17 tributions to such plans in such preceding
18 taxable years.”.

19 (b) CONFORMING AMENDMENTS.—Subparagraph (A)
20 of section 4972(c)(6) (relating to nondeductible contribu-
21 tions) is amended to read as follows:

22 “(A) so much of the contributions to 1 or
23 more defined contribution plans which are not
24 deductible when contributed solely because of



1 section 404(a)(7) as does not exceed the sum
2 of—

3 “(i) the amount of contributions de-
4 scribed in section 401(m)(4)(A), plus

5 “(ii) the amount of contributions de-
6 scribed in section 402(g)(3)(A), or”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to years beginning after December
9 31, 2003.

10 **TITLE V—EXPANDING RETIRE-**
11 **MENT PLAN COVERAGE TO**
12 **EMPLOYEES OF SMALL BUSI-**
13 **NESSES**

14 **SEC. 501. ADDITIONAL NONELECTIVE EMPLOYER CON-**
15 **TRIBUTIONS TO SIMPLE PLANS.**

16 (a) IN GENERAL.—

17 (1) MODIFICATION TO DEFINITION.—Subpara-
18 graph (A) of section 408(p)(2) (defining qualified
19 salary reduction arrangement) is amended by strik-
20 ing “and” at the end of clause (iii), by redesignating
21 clause (iv) as clause (v), and by inserting after
22 clause (iii) the following new clause:

23 “(iv) the employer may make nonelec-
24 tive contributions of a uniform percentage
25 (up to 10 percent) of compensation for



1 each employee who is eligible to participate
2 in the arrangement and who has at least
3 \$5,000 of compensation from the employer
4 for the year, and”.

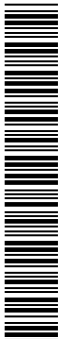
5 (2) LIMITATION.—Subparagraph (A) of section
6 408(p)(2) (defining qualified salary reduction arrange-
7 ment) is amended by adding at the end the following:
8 “The compensation taken into account under clause (iv)
9 for any year shall not exceed the limitation in effect for
10 such year under section 401(a)(17).”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 408(p)(2)(A)(v), as redesignated by
13 subsection (a), is amended by striking “or (iii)” and
14 inserting “, (iii), or (iv)”.

15 (2) Paragraph (8) of section 408(p) is amended
16 by inserting “, the employer contribution actually
17 made under paragraph (2)(A)(iv) of this sub-
18 section,” after “paragraph (2)(A)(ii) of this sub-
19 section”.

20 (3) Section 401(k)(11)(B)(i) is amended by
21 striking “and” at the end of subclause (II), by re-
22 designating subclause (III) as subclause (IV), and
23 by inserting after subclause (II) the following new
24 subclause:



1 “(III) the employer may make
2 nonelective contributions of a uniform
3 percentage (up to 10 percent) of com-
4 pensation for each employee who is el-
5 igible to participate in the arrange-
6 ment and who has at least \$5,000 of
7 compensation from the employer for
8 the year, and”

9 (4) Section 401(k)(11)(B)(i)(IV), as redesign-
10 nated by paragraph (2), is amended by striking “or
11 (II)” and inserting “, (II), or (III)”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to years beginning after December
14 31, 2003.

15 **SEC. 502. MATCHING CONTRIBUTION RULES FOR SIMPLE**
16 **IRAS AND SIMPLE 401(k)S CONFORMED.**

17 (a) IN GENERAL.—Subclause (II) of section
18 401(k)(11)(B)(i) (relating to general rule for contribution
19 requirements) is amended by striking “3 percent” and in-
20 serting “the applicable percentage (as defined in section
21 408(p)(2)(C)(ii))”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to years beginning after December
24 31, 2003.



1 **SEC. 503. SALARY-REDUCTION ONLY SIMPLE PLANS.**

2 (a) SIMPLE RETIREMENT ACCOUNTS.—

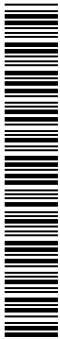
3 (1) IN GENERAL.—Paragraph (2) of section
4 408(p) (defining qualified salary reduction arrange-
5 ment) is amended—

6 (A) by redesignating subparagraphs (C),
7 (D), and (E) as subparagraphs (D), (E), and
8 (F), respectively; and

9 (B) by inserting after subparagraph (B)
10 the following:

11 “(C) EMPLOYER MAY ELECT SALARY RE-
12 DUCATION ONLY ARRANGEMENT.—

13 “(i) IN GENERAL.—An employer shall
14 be treated as meeting the requirements of
15 subparagraph (A)(iii) for any year if, in
16 lieu of the contributions described in such
17 subparagraph, the employer elects to limit
18 the amount which an employee may elect
19 under subparagraph (A)(i) to a total of
20 \$5,000 for the year. If an employer makes
21 an election under this subparagraph for
22 any year, the employer shall notify employ-
23 ees of such election within a reasonable pe-
24 riod of time before the 60-day period for
25 such year under paragraph (5)(C).



1 “(ii) EXCEPTION.—This subpara-
2 graph shall not apply to an employer if
3 such employer (or any predecessor em-
4 ployer) maintained another qualified plan
5 (as defined in subparagraph (E)(ii)) with
6 respect to which contributions were made,
7 or benefits were accrued, for service during
8 the year in which the arrangement de-
9 scribed in clause (i) became effective or ei-
10 ther of the 2 preceding years. If only indi-
11 viduals other than employees described in
12 subparagraph (A) of section 410(b)(3) are
13 eligible to participate in the arrangement
14 described in clause (i), the preceding sen-
15 tence shall be applied without regard to
16 any qualified plan in which only employees
17 so described are eligible to participate.”.

18 (2) SPECIAL RULE FOR ACQUISITIONS, DISPOSI-
19 TIONS, AND SIMILAR TRANSACTIONS.—Subpara-
20 graph (B) of section 408(p)(10) (relating to special
21 rules for acquisitions, dispositions, and similar
22 transactions) is amended by striking “and” at the
23 end of clause (ii), by striking the period at the end
24 of clause (iii) and inserting “; and”, and by inserting
25 after clause (iii) the following:

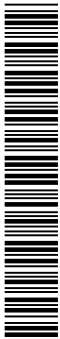


1 “(iv) the requirement under para-
2 graph (2)(C) that the employer not have
3 maintained another qualified plan de-
4 scribed therein.”.

5 (3) COST-OF-LIVING ADJUSTMENT.—Subpara-
6 graph (F) of section 408(p)(2) (as so redesignated)
7 is amended by striking “In” and inserting “(i) In”
8 and by adding after clause (i) the following new
9 clause:

10 “(ii) In the case of a year beginning
11 after December 31, 2004, the Secretary
12 shall adjust the \$5,000 amount in sub-
13 paragraph (C)(i) at the same time and in
14 the same manner as under section 415(d),
15 except that the base period taken into ac-
16 count shall be the calendar quarter begin-
17 ning July 1, 2003, and any increase under
18 this subparagraph which is not a multiple
19 of \$500 shall be rounded to the next lower
20 multiple of \$500.”.

21 (4) COORDINATION WITH MAXIMUM LIMITA-
22 TION.—Paragraph (8) of section 408(p) (relating to
23 coordination with maximum limitation under sub-
24 section (a)) is amended by striking “paragraph
25 (2)(A)(ii) of this subsection” and inserting “sub-



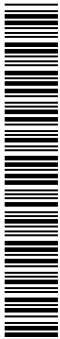
1 paragraph (A)(ii) or (C) of paragraph (2) of this
2 subsection, whichever is applicable,”.

3 (5) CONFORMING AMENDMENT.—Clause (ii) of
4 section 408(p)(10)(B) is amended by striking “para-
5 graph (2)(D)” and inserting “paragraph (2)(E)”.

6 (b) ADOPTION OF SIMPLE PLAN TO MEET NON-
7 DISCRIMINATION TESTS.—Subparagraph (B) of section
8 401(k)(11) (relating to contribution requirements) is
9 amended by redesignating clause (iii) as clause (iv) and
10 by inserting after clause (ii) the following new clause:

11 “(iii) EMPLOYER MAY ELECT SALARY
12 REDUCTION ONLY ARRANGEMENT.—

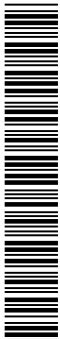
13 “(I) IN GENERAL.—An employer
14 shall be treated as meeting the re-
15 quirements of clause (i)(II) for any
16 year if, in lieu of the contributions de-
17 scribed in such clause, the employer
18 elects to limit the amount which an
19 employee may elect under clause (i) to
20 the amount in effect under section
21 408(p)(2)(C)(i) for the year. If an
22 employer makes an election under this
23 clause for any year, the employer shall
24 notify employees of such election with-
25 in a reasonable period of time before



1 the 60-day period for such year under
2 clause (iv)(II).

3 “(II) EXCEPTION.—This clause
4 shall not apply to an employer if such
5 employer (or any predecessor em-
6 ployer) maintained another qualified
7 plan (as defined in section
8 408(p)(2)(E)(ii)) with respect to
9 which contributions were made, or
10 benefits were accrued, for service dur-
11 ing the year in which the arrangement
12 described in subclause (I) became ef-
13 fective or either of the 2 preceding
14 years. This subclause shall not apply
15 if such contributions or benefits were
16 solely on behalf of employees who are
17 not eligible to participate in the ar-
18 rangement described in subclause
19 (I).”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to years beginning after December
22 31, 2004.



1 **SEC. 504. PERMIT A MID-YEAR CHANGE FROM A SIMPLE**
2 **PLAN TO ANOTHER PLAN.**

3 (a) IN GENERAL.—Clause (i) of section 408(p)(2)(E)
4 (relating to arrangement may be only plan of employer)
5 is amended by striking “An arrangement” and inserting
6 “Except as provided in regulations prescribed by the Sec-
7 retary, an arrangement”.

8 (b) CONFORMING AMENDMENT.—Section
9 401(k)(11)(C) is amended by inserting “, except as pro-
10 vided in regulations prescribed by the Secretary,” after
11 “if”.

12 (c) REGULATIONS.—Not later than December 31,
13 2004, the Secretary shall issue final regulations under
14 which an employer can cease to maintain a qualified salary
15 reduction arrangement in a year and begin maintaining
16 a qualified plan (within the meaning of section
17 408(p)(2)(E)(ii) of the Internal Revenue Code of 1986).
18 Such regulations shall provide safeguards to ensure that
19 changing from such an arrangement to such a plan during
20 a year is not used to circumvent otherwise applicable lim-
21 its or rules.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall take apply to years beginning after De-
24 cember 31, 2004.



1 **SEC. 505. ELIMINATION OF HIGHER PENALTY ON CERTAIN**
2 **SIMPLE DISTRIBUTIONS.**

3 (a) IN GENERAL.—Subsection (t) of section 72 (re-
4 lating to 10-percent additional tax on early distributions
5 from qualified retirement plans) is amended by striking
6 paragraph (6) and redesignating paragraphs (7), (8), and
7 (9) as paragraphs (6), (7), and (8), respectively.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 72(t)(2)(E) is amended by striking
10 “paragraph (7)” and inserting “paragraph (6)”.

11 (2) Section 72(t)(2)(F) is amended by striking
12 “paragraph (8)” and inserting “paragraph (7)”.

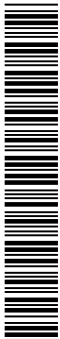
13 (3) Section 408(d)(3)(G) is amended by insert-
14 ing by striking “applies” and inserting “applied on
15 the day before the date of the enactment of the Pen-
16 sion Preservation and Savings Expansion Act of
17 2003)”.

18 (4) Section 457(a)(2) is amended by striking
19 “section 72(t)(9)” and inserting “section 72(t)(8)”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to years beginning after December
22 31, 2003.

23 **SEC. 506. SIMPLE PLAN PORTABILITY.**

24 (a) REPEAL OF LIMITATION.—Paragraph (3) of sec-
25 tion 408(d) (relating to rollover contributions), as amend-
26 ed by this Act, is amended by striking subparagraph (G)



1 and redesignating subparagraph (H) as subparagraph
2 (G).

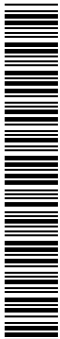
3 (b) Section 402(c)(8)(B) is amended by adding at the
4 end the following new sentence: “Individual retirement ac-
5 counts and individual retirement annuities described in
6 clauses (i) and (ii) shall be treated as eligible retirement
7 plans without regard to whether they are part of a sim-
8 plified employee pension (within the meaning of section
9 408(k)) or a simplified retirement account (within the
10 meaning of section 408(p)).”.

11 (c) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to years beginning after December
13 31, 2003.

14 **SEC. 507. CORRECTION OF SIMPLIFIED EMPLOYEE PEN-**
15 **SION COMPENSATION INCONSISTENCY.**

16 (a) IN GENERAL.—Subparagraph (A) of section
17 402(h)(2) (relating to limitations on employer contribu-
18 tions) is amended by striking “414(s)) from such employer
19 includible in the employee’s gross income” and inserting
20 “415(c)(3)) from such employer”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to taxable years beginning after
23 December 31, 2003.



1 **SEC. 508. EQUALIZATION OF TAX TREATMENT OF RETIRE-**
2 **MENT PLAN CONTRIBUTIONS OF THE SELF-**
3 **EMPLOYED.**

4 (a) IN GENERAL.—Subsection (b) of section 1402
5 (defining self-employment income) is amended by striking
6 “or” at the end of paragraph (1), by striking the period
7 at the end of paragraph (2) and inserting “; or”, and by
8 inserting after paragraph (2) the following:

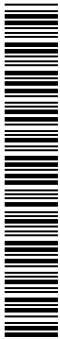
9 “(3) any payment made to, or on behalf of, an
10 individual—

11 “(A) from or to a trust described in sec-
12 tion 401(a) which is exempt from tax under
13 section 501(a) at the time of such payment
14 unless—

15 “(i) such payment is made to the indi-
16 vidual by the trust as remuneration for
17 services rendered and not as a beneficiary
18 of the trust, or

19 “(ii) such payment is treated as an
20 employer contribution under a qualified
21 cash or deferred arrangement (as defined
22 in section 401(k)) to the extent not in-
23 cluded in gross income by reason of section
24 402(e)(3),

25 “(B) under or to an annuity plan which, at
26 the time of such payment, is a plan described



1 in section 403(a), other than any elective defer-
2 rals (within the meaning of section 402(g)(3)),
3 “(C) under a simplified employee pension
4 (as defined in section 408(k)(1)), other than
5 any contributions described in section 408(k)(6)
6 or 408(k)(7),

7 “(D) under or to an annuity contract de-
8 scribed in section 403(b), other than a payment
9 for the purchase of such contract which is made
10 by reason of a salary reduction agreement
11 (whether evidenced by a written instrument or
12 otherwise), or

13 “(E) under an arrangement to which sec-
14 tion 408(p) applies, other than any elective con-
15 tributions under paragraph (2)(A)(i) thereof.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to taxable years beginning after
18 December 31, 2003.



1 **TITLE VI—STRENGTHENING IN-**
 2 **DIVIDUAL RETIREMENT AR-**
 3 **RANGEMENTS**

4 **SEC. 601. ACCELERATION OF INCREASES IN IRA CONTRIBU-**
 5 **TION LIMITS.**

6 (a) DEDUCTIBLE AMOUNT.—The table in subpara-
 7 graph (A) of section 219(b)(5) (relating to general rule
 8 for deductible amount) is amended to read as follows:

| “For taxable years beginning in: | The deductible amount is: |
|---|--------------------------------------|
| 2002 through 2003 | \$3,000 |
| 2004 and thereafter | \$5,000.”. |

9 (b) CATCH-UP CONTRIBUTIONS.—The table in clause
 10 (ii) of section 219(b)(5)(B) (relating to applicable
 11 amount) is amended to read as follows:

| “For taxable years beginning in: | The applicable amount is: |
|---|--------------------------------------|
| 2002 through 2003 | \$500 |
| 2004 and thereafter | \$1,000.”. |

12 (c) CONFORMING AMENDMENTS.—Section
 13 219(b)(5)(C) is amended—

- 14 (1) by striking “2007” and inserting “2003”,
 15 and
 16 (2) by striking “2008” and inserting “2004”.

17 (d) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to taxable years beginning after
 19 December 31, 2003.



1 **SEC. 602. ACCELERATION AND EXPANSION OF CERTAIN**
 2 **SCHEDULED INCREASES IN ELIGIBILITY FOR**
 3 **IRAS AND ELIMINATION OF IRA MARRIAGE**
 4 **PENALTY.**

5 (a) INCREASE IN LIMITATION ON DEDUCTION FOR
 6 ACTIVE PARTICIPANTS IN CERTAIN PENSION PLANS.—
 7 The table in clause (i) of section 219(g)(3)(B) (defining
 8 applicable dollar amount for taxpayers filing joint returns)
 9 is amended to read as follows:

| “For taxable years beginning in: | The applicable dollar amount is: |
|---|---|
| 2003 | \$60,000 |
| 2004 | \$70,000 |
| 2005 | \$75,000 |
| 2006 | \$80,000 |
| 2007 | \$85,000 |
| 2008 | \$90,000 |
| 2009 | \$95,000 |
| 2010 and thereafter | \$100,000.”. |

10 (b) ROTH IRA INCREASE IN APPLICABLE DOLLAR
 11 AMOUNT FOR TAXPAYERS FILING JOINT RETURNS.—

12 (1) IN GENERAL.—Subclause (I) of section
 13 408A(c)(3)(C)(ii) (defining applicable dollar
 14 amount) is amended by striking “\$150,000” and in-
 15 serting “\$190,000”.

16 (2) PHASE-OUT RANGE.—Clause (ii) of section
 17 408A(c)(3)(A) is amended to read as follows:

18 “(ii) \$15,000 (\$30,000 in the case of
 19 a joint return).

20 (c) ELIMINATION OF MARRIAGE PENALTY ON IRA
 21 DEDUCTION FOR ACTIVE PENSION PLAN PARTICI-



1 PANTS.—Section 219(g) (relating to limitation on deduc-
2 tion for active participants in certain pension plans) is
3 amended—

4 (1) by striking “or the individual’s spouse” in
5 paragraph (1), and

6 (2) by striking paragraph (7).

7 (d) EFFECTIVE DATES.—

8 (1) SUBSECTIONS (A) AND (B).—The amend-
9 ments made by subsection (a) shall apply to taxable
10 years beginning after December 31, 2003.

11 (2) SUBSECTION (C).—The amendments made
12 by subsection (c) shall apply to taxable years begin-
13 ning after December 31, 2006.

14 **SEC. 603. IRA ELIGIBILITY FOR THE DISABLED.**

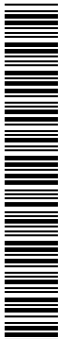
15 (a) IN GENERAL.—Subsection (f) of section 219 (re-
16 lating to other definitions and special rules) is amended
17 by adding at the end the following:

18 “(8) SPECIAL RULE FOR CERTAIN DISABLED
19 INDIVIDUALS.—In the case of an individual—

20 “(A) who is disabled (within the meaning
21 of section 72(m)(7)), and

22 “(B) who has not attained age 70½ before
23 the close of the taxable year,

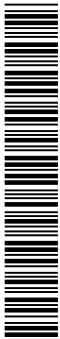
24 subparagraph (B) of subsection (b)(1) shall not
25 apply.”.



1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2003.

4 **SEC. 604. PROTECTING IRA ASSETS.**

5 The Secretary of the Treasury shall, no later than
6 December 31, 2004, establish a correction procedure that
7 specifically allows an individual to rescind one or more dis-
8 tributions from an individual retirement plan (as defined
9 in section 7701(a)(37) of the Internal Revenue Code of
10 1986) (whether or not in the same taxable year) to correct
11 errors that result from the individual's misunderstanding
12 of applicable rules or an error of the trustee, custodian,
13 or issuer of the individual retirement plan in processing
14 a transaction in the form of a distribution rather than a
15 transfer, rollover, or similar transaction. Such procedure
16 shall provide for rescission of distributions without a filing
17 with the Secretary in the case of errors that are corrected
18 within a reasonable time as defined by the Secretary and
19 may provide for other self-correction safe harbors. Such
20 procedure shall also include appropriate conditions on the
21 correction procedure to prevent abuse.



1 **TITLE VII—REVITALIZING**
2 **DEFINED BENEFIT PLANS**

3 **SEC. 701. MULTIPLE EMPLOYER PLANS PERMITTED TO**
4 **ELECT SEPARATE OR AGGREGATE TREAT-**
5 **MENT FOR PURPOSES OF APPLYING THE**
6 **FUNDING RULES AND DEDUCTION LIMITA-**
7 **TIONS.**

8 (a) IN GENERAL.—Paragraph (4) of section 413(c)
9 (relating to funding) is amended—

10 (1) in subparagraph (A) by striking “In the
11 case of” and inserting “Except as provided in sub-
12 paragraph (C), in the case of”, and

13 (2) in subparagraph (B)—

14 (A) by striking “In the case of” and in-
15 serting “Except as provided in subparagraph
16 (C), in the case of”,

17 (B) by striking “unless” and all that fol-
18 lows and inserting a period, and

19 (C) by inserting after subparagraph (B)
20 the following:

21 “(C) ELECTION TO BE TREATED AS SEPA-
22 RATE OR AGGREGATE PLAN.—The plan admin-
23 istrator may elect with respect to a plan—

24 “(i) to have subparagraph (A) apply
25 to the plan, or



1 “(ii) to have the requirements of sec-
2 tion 412 be determined as if all partici-
3 pants in the plan were employed by a sin-
4 gle employer.

5 An election under the preceding sentence shall
6 take effect for the plan year in which made
7 and, once made, may be revoked only with the
8 consent of the Secretary.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Paragraph (6) of section 413(c) is
11 amended—

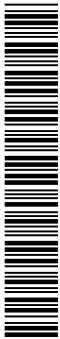
12 (A) by striking “In the case of” and in-
13 serting “Except provided in subparagraph (C),
14 in the case of”, and

15 (B) by adding at the end the following new
16 subparagraph:

17 “(C) ELECTION.—If with respect to a
18 plan—

19 “(i) paragraph (4)(A) applies, sub-
20 paragraph (A) of this paragraph shall
21 apply, and

22 “(ii) paragraph (4)(B) applies, sub-
23 paragraph (B) of this paragraph shall
24 apply.



1 (2) Section 413(c)(6)(B)(i) is amended by strik-
2 ing “except” and all that follows and inserting “ex-
3 cept as provided in subparagraph (C).”.

4 (3) Section 210(a)(3) of the Employee Retirement
5 Income Security Act of 1974 (29 U.S.C.
6 1060(a)(3)) is amended by striking “The” and in-
7 serting “Except as provided in section 413(c)(4) of
8 the Internal Revenue Code of 1986, the”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to years beginning after December
11 31, 2003.

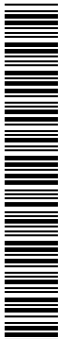
12 **SEC. 702. TREATMENT OF EMPLOYEE CONTRIBUTIONS TO**
13 **CONTRIBUTORY DEFINED BENEFIT PLANS.**

14 (a) AMENDMENT TO THE INTERNAL REVENUE CODE
15 OF 1986.—Subsection (e) of section 402 (relating to other
16 rules applicable to exempt trusts) is amended by adding
17 at the end the following new paragraph:

18 “(7) CONTRIBUTORY DEFINED BENEFIT
19 PLANS.—For purposes of sections 72 and 451, an
20 amount shall not be treated as received by an em-
21 ployee if such amount is—

22 “(A) contributed—

23 “(i) to an employee’s trust described
24 in section 401(a) which is maintained in
25 connection with a defined benefit plan, or



1 “(ii) under a defined benefit plan de-
2 scribed in section 403(a), and

3 “(B) such contributions would be described
4 in section 414(h)(2) if the plan were established
5 by an entity described therein.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to contributions made in years be-
8 ginning after December 31, 2003.

9 **SEC. 703. REFORM OF THE MINIMUM PARTICIPATION RULE.**

10 (a) IN GENERAL.—Subparagraph (A) of section
11 401(a)(26) (relating to additional participation require-
12 ments) is amended by striking “In the case of” and insert-
13 ing ““To the extent provided in regulations prescribed by
14 the Secretary, in the case of”.

15 (b) REGULATIONS.—Not later than December 31,
16 2003, the Secretary of the Treasury shall issue final regu-
17 lations under which the application of section 401(a)(26)
18 of the Internal Revenue Code of 1986 is restricted to—

19 (1) arrangements described in section
20 1.401(a)(26)-2(d)(1)(iii) of the Treasury Regula-
21 tions (as in effect on the date of the enactment of
22 this Act), and

23 (2) other arrangements that use multiple de-
24 fined benefit plans in a manner inconsistent with the



1 purposes of the nondiscrimination rules or with the
2 intended nature of a defined benefit plan.

3 (c) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall take effect on the date of enactment
5 of this Act.

6 **SEC. 704. PLAN VALUATION DATA COLLECTION.**

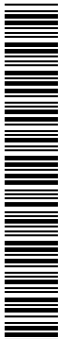
7 (a) AMENDMENT TO THE INTERNAL REVENUE CODE
8 OF 1986.—

9 (1) PLAN'S LIABILITY.—

10 (A) IN GENERAL.—Subparagraph (B) of
11 section 412(c)(9) (relating to annual valuation)
12 is amended by adding at the end the following:

13 “(v) VALUATION OF PLAN'S LIABIL-
14 ITY.—Valuation of the plan's liability for
15 purposes of this paragraph may be based
16 on data determined as of a date within the
17 plan year to which the valuation refers or
18 as of a date within the plan year prior to
19 the year to which the valuation refers.”.

20 (B) CONFORMING AMENDMENT.—The
21 heading for section 412(c)(9)(B) is amended by
22 striking “VALUATION DATE” and inserting
23 “VALUATION OF EXPERIENCE GAINS AND
24 LOSSES”.



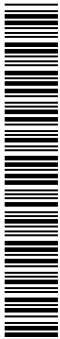
1 (2) PLAN'S ASSETS.—Subparagraph (B) of sec-
2 tion 412(c)(9) (relating to annual valuation) is
3 amended by adding at the end the following:

4 “(vi) VALUATION OF PLAN'S AS-
5 SETS.—The valuation of a plan's assets
6 may be made as of a date later than the
7 date as of which the plan's liabilities are
8 valued if—

9 “(I) the asset valuation date is
10 not later than the end of the plan
11 year to which the valuation refers,
12 and

13 “(II) the value of such assets is
14 adjusted back to the date as of which
15 the plan's liabilities are valued based
16 on the interest rate in subsection
17 (b)(5)(A) or (b)(5)(B), as applicable,
18 and adjusting for cash flows that are
19 not taken into account in the interest
20 assumption and that occur between
21 the date that the liabilities are valued
22 and the date that the assets are val-
23 ued.”.

24 (b) AMENDMENT TO THE EMPLOYEE RETIREMENT
25 INCOME SECURITY ACT OF 1974.—



1 (1) PLAN’S LIABILITY.—Subparagraph (B) of
2 section 302(c)(9) of the Employee Retirement In-
3 come Security Act of 1974 (29 U.S.C.
4 1082(c)(9)(B)) is amended by adding at the end the
5 following:

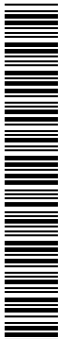
6 “(iv) Valuation of the plan’s liability for purposes of
7 this paragraph may be based on data determined as of
8 a date within the plan year to which the valuation refers
9 or as of a date within the plan year prior to the year to
10 which the valuation refers.”.

11 (2) PLAN’S ASSETS.—Subparagraph (B) of sec-
12 tion 302(c)(9) of the Employee Retirement Income
13 Security Act of 1974 (29 U.S.C. 1082(c)(9)(B)) is
14 amended by adding at the end the following:

15 “(v) The valuation of a plan’s assets may be made
16 as of a date later than the date as of which the plan’s
17 liabilities are valued if—

18 “(I) the asset valuation date is not later than
19 the end of the plan year to which the valuation re-
20 fers, and

21 “(II) the value of such assets is adjusted back
22 to the date as of which the plan’s liabilities are val-
23 ued based on the interest rate in subsection
24 (b)(5)(A) or (b)(5)(B), as applicable, and adjusting
25 for cash flows that are not taken into account in the



1 interest assumption and that occur between the date
2 that the liabilities are valued and the date that the
3 assets are valued.”.

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
6 sections (a)(2) and (b)(2) shall apply to years begin-
7 ning after December 31, 2002.

8 (2) SPECIAL RULE.—The amendments made by
9 subsections (a)(1) and (b)(1) shall take effect as if
10 included in section 661(a) of the Economic Growth
11 and Tax Relief Reconciliation Act of 2001.

12 **SEC. 705. REPLACEMENT OF INTEREST RATE ON 30-YEAR**
13 **TREASURY SECURITIES WITH INTEREST**
14 **RATE ON CONSERVATIVELY-INVESTED LONG-**
15 **TERM CORPORATE BONDS.**

16 (a) INTERNAL REVENUE CODE OF 1986.—

17 (1) IN GENERAL.—Subclause (I) of section
18 412(b)(5)(B)(ii) and subclause (II) of section
19 417(e)(3)(A)(ii) are each amended by striking “30-
20 year Treasury securities” and inserting “amounts
21 conservatively invested in long-term corporate
22 bonds”.

23 (2) REGULATIONS.—

24 (A) Subclause (I) of section
25 412(b)(5)(B)(ii) is amended by adding at the



1 end the following: “The Secretary shall, by reg-
2 ulation, prescribe a method for determining the
3 rate of interest on amounts conservatively in-
4 vested in long-term corporate bonds, based on
5 one or more indices, as determined from time to
6 time by the Secretary.”.

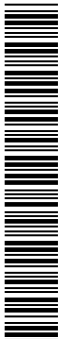
7 (B) Subclause (II) of section
8 417(e)(3)(A)(ii) is amended by adding at the
9 end the following: “The Secretary shall, by reg-
10 ulations, prescribe a method for determining
11 this interest rate based on one or more indices,
12 as determined from time to time by the Sec-
13 retary.”.

14 (3) CONFORMING AMENDMENTS.—

15 (A) Section 412(b)(5)(B)(iii)(II) is amend-
16 ed to read as follows:

17 “(II) consistent with the rate of
18 return with respect to amounts con-
19 servatively invested in long-term cor-
20 porate bonds.”.

21 (B) Section 415(b)(2)(E)(ii) is amended by
22 striking “the applicable interest rate (as defined
23 in section 417(e)(3))” and inserting “5.5 per-
24 cent”.



1 (4) PHASEIN OF INTEREST RATE ON LONG-
 2 TERM CORPORATE BONDS.—Section 417(e)(3)(A)(ii)
 3 is amended by adding at the end the following:

4 “(III) PHASEIN OF INTEREST
 5 RATE ON LONG-TERM CORPORATE
 6 BONDS.—In the case of a plan year
 7 specified in the table in subclause
 8 (IV), the interest rate for purposes of
 9 subclause (II) shall be the lower of
 10 (aa) the rate specified in subclause
 11 (II) (without regard to this sub-
 12 clause), or (bb) the 30-year Treasury
 13 securities rate plus the applicable per-
 14 centage of the excess of the rate speci-
 15 fied in subclause (II) (without regard
 16 to this subclause) over the 30-year
 17 Treasury securities rate.

18 “(IV) APPLICABLE PERCENT-
 19 AGE.—For purposes of subclause
 20 (III), the applicable percentage shall
 21 be determined in accordance with the
 22 following table:

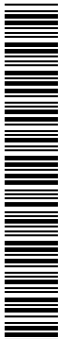
| “Plan year beginning in calendar year: | Applicable percentage: |
|---|-----------------------------------|
| 2006 | 20 |
| 2007 | 40 |
| 2008 | 60 |
| 2009 | 80. |



1 “(V) SPECIAL RULE FOR COL-
2 LECTIVELY BARGAINED PLANS.—In
3 the case of a plan maintained pursu-
4 ant to one or more collective bar-
5 gaining agreements between employee
6 representatives and one or more em-
7 ployers ratified by the date of the en-
8 actment of this subclause, in lieu of
9 the 4 calendar years specified in sub-
10 clause (IV), the years corresponding
11 to the applicable percentages in sub-
12 clause (IV) shall be the first 4 years
13 in which subclause (III) applies to
14 employees covered by any such agree-
15 ment. This subclause shall only apply
16 to such employees.”.

17 (b) EMPLOYEE RETIREMENT INCOME SECURITY ACT
18 OF 1974.—

19 (1) IN GENERAL.—Subclause (II) of section
20 205(g)(3)(A)(ii), subclause (I) of section
21 302(b)(5)(B)(ii), and subclause (II) of section
22 4006(a)(3)(E)(iii) of the Employee Retirement In-
23 come Security Act of 1974 are each amended by
24 striking “30-year Treasury securities” and inserting



1 “amounts conservatively invested in long-term cor-
2 porate bonds”.

3 (2) REGULATIONS.—

4 (A) Subclause (II) of section
5 205(g)(3)(A)(ii) of the Employee Retirement
6 Income Security Act of 1974 is amended by
7 adding at the end the following: “The Secretary
8 of the Treasury shall, by regulation, prescribe a
9 method for determining this interest rate based
10 on one or more indices, as determined from
11 time to time by the Secretary of the Treasury.”.

12 (B) Subclause (I) of section
13 302(b)(5)(B)(ii) of the Employee Retirement
14 Income Act of 1974 is amended by adding at
15 the end the following: “The Secretary of the
16 Treasury shall, by regulation, prescribe a meth-
17 od for determining the rate of interest on
18 amounts conservatively invested in long-term
19 corporate bonds, based on one or more indices,
20 as determined from time to time by the Sec-
21 retary of the Treasury.”.

22 (C) Subclause (II) of section
23 4006(a)(3)(E)(iii) of the Employee Retirement
24 Income Security Act of 1974 is amended by
25 adding at the end the following: “The Secretary



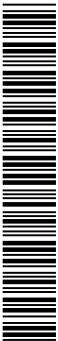
1 of the Treasury shall, by regulation, prescribe a
2 method for determining such annual yield based
3 on one or more indices, as determined from
4 time by the Secretary of the Treasury.”.

5 (3) CONFORMING AMENDMENT.—Section sec-
6 tion 302(b)(5)(B)(iii)(II) of such Act is amended to
7 read as follows:

8 “(II) consistent with the rate of
9 return with respect to amounts con-
10 servatively invested in long-term cor-
11 porate bonds.”.

12 (4) PHASEIN OF INTEREST RATE ON LONG-
13 TERM CORPORATE BONDS.—Section 205(g)(3)(A)(ii)
14 is amended by adding at the end the following:

15 “(III) In the case of a plan year specified
16 in the table in subclause (IV), the interest rate
17 for purposes of subclause (II) shall be the lower
18 of (aa) the rate specified in subclause (II)
19 (without regard to this subclause), or (bb) the
20 30-year Treasury securities rate plus the appli-
21 cable percentage of the excess of the rate speci-
22 fied in subclause (II) (without regard to this
23 subclause) over the 30-year Treasury securities
24 rate.



1 “(IV) For purposes of subclause (III), the
 2 applicable percentage shall be determined in ac-
 3 cordance with the following table:

| “Plan year beginning in calendar year: | Applicable percentage: |
|---|-----------------------------------|
| 2006 | 20 |
| 2007 | 40 |
| 2008 | 60 |
| 2009 | 80. |

4 “(V) SPECIAL RULE FOR COLLECTIVELY
 5 BARGAINED PLANS.—In the case of a plan
 6 maintained pursuant to one or more collective
 7 bargaining agreements between employee rep-
 8 resentatives and one or more employers ratified
 9 by the date of the enactment of this subclause,
 10 in lieu of the 4 calendar years specified in sub-
 11 clause (IV), the years corresponding to the ap-
 12 plicable percentages in subclause (IV) shall be
 13 the first 4 years in which subclause (III) ap-
 14 plies to employees covered by any such agree-
 15 ment. This subclause shall only apply to such
 16 employees.”.

17 (d) EFFECTIVE DATE.—

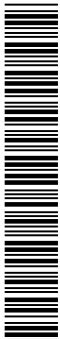
18 (1) IN GENERAL.—Except as provided in para-
 19 graphs (2), (3), (4), and (5), the amendments made
 20 by this section shall apply to years beginning after
 21 December 31, 2003.



1 (2) SURVIVOR ANNUITIES.—Except as provided
2 in paragraphs (3) and (4), in the case of amend-
3 ments made by this section to section
4 417(e)(3)(A)(ii) of the Internal Revenue Code of
5 1986 and to section 205(g)(3)(A)(ii) of the Em-
6 ployee Retirement Income Security Act of 1974, and
7 for purposes of section 411(a)(11)(B) of the Internal
8 Revenue Code of 1986 and section 203(e)(2) of the
9 Employee Retirement Income Security Act of 1974,
10 such amendments shall apply to years beginning
11 after December 31, 2005.

12 (3) LOOKBACK RULES.—For purposes of apply-
13 ing all applicable lookback rules in years beginning
14 on or after the otherwise applicable effective date de-
15 termined under paragraph (1), (2), or (4), the
16 amendments made by this section shall be applied as
17 if such amendments had been in effect for all years
18 beginning before such effective date. For purposes of
19 this paragraph, a lookback rule is a rule that uses
20 data from a prior year in determining requirements
21 applicable to the current year.

22 (4) COLLECTIVE BARGAINING AGREEMENTS.—
23 Except as provided in paragraph (3), in the case of
24 a plan maintained pursuant to one or more collective
25 bargaining agreements between employee representa-



1 tives and one or more employers ratified by the date
2 of the enactment of this Act, the amendments de-
3 scribed in paragraph (2) shall not apply to employ-
4 ees covered by any such agreement for plan years
5 beginning before the earlier of—

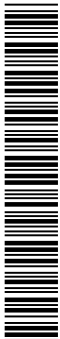
6 (A) the later of—

7 (i) the date on which the last of such
8 collective bargaining agreements termi-
9 nates (determined without regard to any
10 extension thereof on or after such date of
11 the enactment); or

12 (ii) January 1, 2006, or

13 (B) January 1, 2008.

14 (5) NO REDUCTION REQUIRED.—In the case of
15 any participant or beneficiary, the amount payable
16 under any form of benefit subject to section
17 417(e)(3) of the Internal Revenue Code of 1986
18 shall not be required to be reduced below the
19 amount determined as of the last day of the last
20 plan year beginning before January 1, 2004, merely
21 because of the amendments made by subsection
22 (a)(3)(B).



1 **SEC. 706. INTEREST RATE RANGE FOR ADDITIONAL FUND-**
2 **ING REQUIREMENTS.**

3 (a) AMENDMENTS TO THE INTERNAL REVENUE
4 CODE OF 1986.—

5 (1) SPECIAL RULE.—Subclause (III) of section
6 412(1)(7)(C)(i) is amended—

7 (A) by striking “2002 or 2003” in the text
8 and inserting “2001, 2002, or 2003”, and

9 (B) by striking “2002 AND 2003” in the
10 heading and inserting “2001, 2002, AND 2003”.

11 (2) QUARTERLY CONTRIBUTIONS.—Paragraph
12 (7) of section 412(m) is amended to read as follows:

13 “(7) SPECIAL RULE FOR 2002.—In any case in
14 which the interest rate used to determine current li-
15 ability is determined under subsection
16 (1)(7)(C)(i)(III), for purposes of applying para-
17 graphs (1) and (4)(B)(ii) for plan years beginning in
18 2002, the current liability for the preceding plan
19 year shall be redetermined using 120 percent as the
20 specified percentage determined under subsection
21 (1)(7)(C)(i)(II).”

22 (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT
23 INCOME SECURITY ACT OF 1974.—

24 (1) SPECIAL RULE.—Subclause (III) of section
25 302(d)(7)(C)(i) of the Employee Retirement Income



1 Security Act of 1974 (29 U.S.C. 1082(d)(7)(C))(i))
2 is amended—

3 (A) by striking “2002 or 2003” in the text
4 and inserting “2001, 2002, or 2003”, and

5 (B) by striking “2002 AND 2003” in the
6 heading and inserting “2001, 2002, AND 2003”.

7 (2) QUARTERLY CONTRIBUTIONS.—Paragraph
8 (7) of section 302(e) is amended to read as follows:

9 “(7) SPECIAL RULE FOR 2002.—In any case in
10 which the interest rate used to determine current li-
11 ability is determined under subsection
12 (d)(7)(C)(i)(III), for purposes of applying para-
13 graphs (1) and (4)(B)(ii) for plan years beginning in
14 2002, the current liability for the preceding plan
15 year shall be redetermined using 120 percent as the
16 specified percentage determined under subsection
17 (d)(7)(C)(i)(II).”

18 (c) PBGC.—Subclause (IV) of section
19 4006(a)(3)(E)(iii) of such Act (29 U.S.C.
20 1306(a)(3)(E)(iii)) is amended to read as follows:

21 “(IV) In the case of plan years
22 beginning after December 31, 2001,
23 and before January 1, 2004, sub-
24 clause (II) shall be applied by sub-
25 stituting ‘100 percent’ for ‘85 percent’



1 and by substituting ‘115 percent’ for
2 ‘100 percent’. Subclause (III) shall be
3 applied for such years without regard
4 to the preceding sentence.

5 (d) **EFFECTIVE DATE.**—The amendments made by
6 this section shall take effect as if included in the amend-
7 ments made by section 405 of the Job Creation and Work-
8 er Assistance Act of 2002.

9 **SEC. 707. ASSET VALUATION.**

10 (a) **IN GENERAL.**—Clause (iv) of section
11 4006(a)(3)(E) is amended by striking “1986” and insert-
12 ing “1986 (determined without regard to subclause (I) of
13 section 412(c)(7)(A)(ii) of such Code)”.

14 (b) **EFFECTIVE DATE.**—The amendment made by
15 this section shall apply to the determination of premiums
16 for plan years ending after December 31, 2003.

17 **SEC. 708. MULTIEMPLOYER PLAN EMERGENCY INVEST-**
18 **MENT LOSS RULE.**

19 (a) **AMENDMENT TO THE INTERNAL REVENUE CODE**
20 **OF 1986.**—Paragraph (7) of section 412(b) (relating to
21 special rules for multiemployer plans) is amended by add-
22 ing at the end the following new subparagraph:

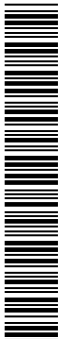
23 “(F) **EMERGENCY INVESTMENT LOSS**
24 **METHOD.**—



1 “(i) IN GENERAL.—In lieu of amor-
2 tizing its experience loss as prescribed in
3 paragraph (2)(B)(iv), a multiemployer plan
4 may elect to use the emergency investment
5 loss method described in this subpara-
6 graph, starting with the first plan year in
7 which it has an emergency investment loss.

8 “(ii) EMERGENCY INVESTMENT
9 LOSS.—An emergency investment loss is
10 the difference between the market value of
11 the plan’s assets as of the last day of a
12 plan year beginning on or after July 1,
13 1999 and ending before January 1, 2004,
14 and what that market value would have
15 been if the plan’s earnings had been equal
16 to the projected investment return based
17 on the actuarial interest rate under para-
18 graph (5)(A) for the plan year, applied to
19 the market value of assets as of the begin-
20 ning of the year and noninvestment cash
21 flows during the year.

22 “(iii) AMORTIZATION OF EMERGENCY
23 INVESTMENT LOSS.—The funding standard
24 account shall be charged with the amounts
25 necessary to amortize in equal annual in-



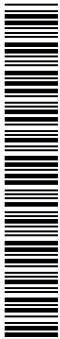
1 stallments (until fully amortized) the
2 plan's emergency investment loss, over a
3 period of 30 plan years.

4 “(iv) ADJUSTED NET ACTUARIAL EX-
5 PERIENCE.—The adjusted net actuarial ex-
6 perience is the amount produced by sub-
7 tracting the emergency investment loss
8 from the net experience gain or loss for the
9 plan year as otherwise determined for pur-
10 poses of paragraph (2)(B)(iv) or (3)(B)(ii)
11 of this subsection.

12 “(v) AMORTIZATION OF ADJUSTED
13 NET ACTUARIAL EXPERIENCE.—The ad-
14 justed net actuarial experience is treated
15 as a net experience gain or loss and
16 charged or credited to the funding stand-
17 ard account under paragraph (2)(B)(iv) or
18 (3)(B)(ii), as applicable.”.

19 (b) AMENDMENT TO THE EMPLOYEE RETIREMENT
20 INCOME SECURITY ACT OF 1974.—Paragraph (7) of sec-
21 tion 302(b) of the Employee Retirement Income Security
22 Act of 1974 is amended by adding at the end the following
23 new subparagraph:

24 “(F)(i) In lieu of amortizing its experience loss as
25 prescribed in paragraph (2)(B)(iv), a multiemployer plan



1 may elect to use the emergency investment loss method
2 described in this subparagraph, starting with the first plan
3 year in which it has an emergency investment loss.

4 “(ii) An emergency investment loss is the difference
5 between the market value of the plan’s assets as of the
6 last day of a plan year beginning on or after July 1, 1999
7 and ending before January 1, 2004, and what that market
8 value would have been if the plan’s earnings had been
9 equal to the projected investment return based on the ac-
10 tuarial interest rate under paragraph (5)(A) for the plan
11 year, applied to the market value of assets as of the begin-
12 ning of the year and noninvestment cash flows during the
13 year.

14 “(iii) The funding standard account shall be charged
15 with the amounts necessary to amortize in equal annual
16 installments (until fully amortized) the plan’s emergency
17 investment loss, over a period of 30 plan years.

18 “(iv) The adjusted net actuarial experience is the
19 amount produced by subtracting the emergency invest-
20 ment loss from the net experience gain or loss for the plan
21 year as otherwise determined for purposes of paragraph
22 (2)(B)(iv) or (3)(B)(ii) of this subsection.

23 “(v) The adjusted net actuarial experience is treated
24 as a net experience gain or loss and charged or credited

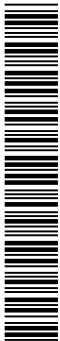


1 to the funding standard account under paragraph
2 (2)(B)(iv) or (3)(B)(ii), as applicable.”.

3 (c) ELECTION PROCEDURE.—

4 (1) IN GENERAL.—The Secretary shall pre-
5 scribe a procedure under which multiemployer plans
6 that elect to use the emergency investment loss
7 method, as described in section 412(b)(7)(F) of the
8 Internal Revenue Code of 1986 and section
9 302(b)(7)(F) of the Employee Retirement Income
10 Security Act of 1974, may do so either by starting
11 the special amortization periods in the actuarial
12 valuations for each of the affected plan years or by
13 starting with a cumulative emergency investment
14 loss and adjusted net actuarial experience (based on
15 the outstanding balance of the experience gain bases
16 for the affected plan years, reduced by the cumu-
17 lative emergency investment loss) in the actuarial
18 valuation for the last plan year ending before Janu-
19 ary 1, 2004.

20 (2) FILING PERIOD.—The procedures described
21 in paragraph (1) shall provide a period of not less
22 than 210 days after the date of enactment of this
23 Act for multiemployer plans to file Schedule Bs to
24 the Form 5500 Annual Reports for the plan years
25 for which the emergency investment loss method is



1 elected, including amended Schedule Bs for annual
2 reports previously filed.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to years beginning after June 30,
5 1999.

6 **SEC. 709. MORTALITY TABLE ADJUSTMENT.**

7 (a) AMENDMENT TO THE INTERNAL REVENUE
8 CODE.—Subparagraph (C) of section 412(l)(7) is amend-
9 ed by adding at the end the following clause:

10 “(iv) SEPARATE MORTALITY TABLES
11 FOR BLUE-COLLAR WORKERS.—Notwith-
12 standing clause (ii), in the case of plan
13 years beginning after December 31, 2003,
14 the Secretary shall establish mortality ta-
15 bles which may be used (in lieu of the ta-
16 bles under clause (ii)) to determine current
17 liability under this subsection for individ-
18 uals who are blue-collar workers (as de-
19 fined under rules prescribed by the Sec-
20 retary). For this purpose, the Secretary
21 shall take into account the Society of Actu-
22 aries RP-2000 Mortality Table, as ad-
23 justed to take into account the collar ad-
24 justment prescribed in such Table to re-
25 flect the workforce covered by the plan.”.



1 (b) AMENDMENT TO THE EMPLOYEE RETIREMENT
2 INCOME SECURITY ACT OF 1974.—Subparagraph (C) of
3 section 302(d)(7) of the Employee Retirement Income Se-
4 curity Act of 1974 (29 U.S.C. 1082(d)(7)) is amended by
5 adding at the end the following clause:

6 “(iv) SEPARATE MORTALITY TABLES
7 FOR BLUE-COLLAR WORKERS.—Notwith-
8 standing clause (ii), in the case of plan
9 years beginning after December 31, 2003,
10 the Secretary shall establish mortality ta-
11 bles which may be used (in lieu of the ta-
12 bles under clause (ii)) to determine current
13 liability under this subsection for individ-
14 uals who are blue-collar workers (as de-
15 fined under rules prescribed by the Sec-
16 retary). For this purpose, the Secretary
17 shall take into account the Society of Actu-
18 aries RP-2000 Mortality Table, as ad-
19 justed to take into account the collar ad-
20 justment prescribed in such Table to re-
21 flect the workforce covered by the plan.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall be effective as of the date of enactment
24 of this Act.



1 **TITLE VIII—SIMPLIFY AND**
2 **STREAMLINE RETIREMENT**
3 **PLAN RULES**

4 **SEC. 801. EXCISE TAX ON EXCESS CONTRIBUTIONS.**

5 (a) EXPANSION OF CORRECTIVE DISTRIBUTION PE-
6 RIOD.—Subsection (f) of section 4979 is amended—

7 (1) in paragraph (1) by striking “2½ months”
8 and inserting “6 months”, and

9 (2) in the heading by striking “2½ MONTHS”
10 and inserting “6 MONTHS”.

11 (b) INCREASE IN DE MINIMIS DISTRIBUTION
12 AMOUNT.—Subparagraph (B) of section 4979(f)(2) is
13 amended by striking “\$100” and inserting “\$1,000”.

14 (c) MODIFICATION OF DE MINIMIS RULE.—Subpara-
15 graph (B) of section 4972(f)(2) is amended by striking
16 “If” and inserting “To the extent that” and by striking
17 “are less than” and inserting “do not exceed”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to years beginning after December
20 31, 2003.

21 **SEC. 802. EXCESS BENEFIT PLANS.**

22 (a) IN GENERAL.—Section 3(36) of the Employee
23 Retirement Income Security Act of 1974 (29 U.S.C.
24 1002(36)) is amended to read as follows:



1 “(36) The term ‘excess benefit plan’ means a plan,
2 without regard to whether such plan is funded, maintained
3 by an employer solely for the purpose of providing benefits
4 to employees in excess of any limitation imposed by section
5 401(a)(17), 401(k)(3)(A)(ii), 401(m)(2), or 415 of the In-
6 ternal Revenue Code of 1986. To the extent that a sepa-
7 rable part of a plan (as determined by the Secretary of
8 Labor) maintained by an employer is maintained for such
9 purpose, that part shall be treated as a separate plan
10 which is an excess benefit plan.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to plan years beginning after De-
13 cember 31, 2003.

14 **SEC. 803. PAPERLESS TECHNOLOGIES IN RETIREMENT**
15 **PLANS.**

16 (a) PAPERLESS TECHNOLOGIES.—Not later than De-
17 cember 31, 2004, except as provided in subsection (c), the
18 Secretary of the Treasury and the Secretary of Labor
19 shall, by regulation, allow the use of paperless technologies
20 for purposes of—

21 (1) notices, elections, and spousal consents re-
22 quired under sections 401(a)(11) and 417 of the In-
23 ternal Revenue Code of 1986 and section 205 of
24 Employee Retirement Income Security Act of 1974,



1 (2) providing information to satisfy the condi-
2 tions for a hardship distribution under section
3 401(k)(2)(B)(i)(IV) of such Code, and

4 (3) other plan transactions for which the Secre-
5 taries determine that the use of paperless tech-
6 nologies is appropriate.

7 (b) CONDITION OF USING PAPERLESS TECH-
8 NOLOGIES.—Technologies permitted pursuant to sub-
9 section (a) shall not—

10 (1) undermine the rights of any participant,
11 any spouse of a participant, or any other beneficiary,
12 or

13 (2) weaken the policy purposes of any rule for
14 which such technologies are permitted.

15 (c) REPORT IN CASES WHERE PAPERLESS TECH-
16 NOLOGY NOT USED.—

17 (1) IN GENERAL.—Not later than December 31,
18 2004, if the Secretary of the Treasury or the Sec-
19 retary of Labor determines that permitting the use
20 of paperless technologies for a particular purpose is
21 unworkable or would jeopardize individuals' rights or
22 public policy objectives, the applicable Secretary
23 shall not permit the use of paperless technologies for
24 such purpose, but rather shall submit a report to the
25 Committee on Ways and Means and the Committee



1 on Education and the Workforce of the House of
2 Representatives and the Committee on Finance and
3 the Committee on Health, Education, Labor and
4 Pensions of the Senate.

5 (2) CONTENTS OF REPORT.—The applicable
6 Secretary shall set forth in the report required by
7 subsection (a) the determination with respect to
8 each such purpose and recommendations for any
9 changes in law that would facilitate the greater use
10 of paperless technologies.

11 **SEC. 804. ELIMINATION OF UNINTENDED CONSEQUENCES**

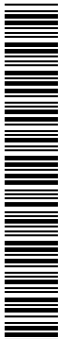
12 **ATTRIBUTABLE TO USE OF BASE PAY OR**
13 **RATE OF PAY.**

14 Not later than December 31, 2003, the Secretary of
15 the Treasury shall issue final regulations under which the
16 rules in Treasury Regulation 1.414(s)–1 (without regard
17 to paragraph (d)(3) thereof) apply for purposes of the safe
18 harbor rules under Treasury Regulation 1.401(a)(4)–3(b).

19 **SEC. 805. REPEAL OF THE GATEWAY TEST.**

20 (a) IN GENERAL.—Paragraph (5) of section 410(b)
21 (relating to line of business exception) is amended to read
22 as follows:

23 “(5) LINE OF BUSINESS EXCEPTION.—If, under
24 section 414(r), an employer is treated as operating
25 separate lines of business for a year, the employer



1 may apply the requirements of this subsection for
2 such year separately with respect to employees in
3 each separate line of business.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this subsection shall apply to years beginning after De-
6 cember 31, 2003.

7 **SEC. 806. INTERMEDIATE SANCTIONS FOR INADVERTENT**
8 **FAILURES.**

9 (a) IN GENERAL.—Section 401(a) (relating to quali-
10 fied pension, profit-sharing, and stock bonus plans) is
11 amended by inserting after paragraph (34) the following:

12 “(35) PROTECTION FROM DISQUALIFICATION
13 UPON TIMELY CORRECTION OR PAYMENT OF FINE.—

14 A trust shall not fail to constitute a qualified trust
15 under this section if the plan of which such trust is
16 a part has made good faith efforts to meet the re-
17 quirements of this section, has inadvertently failed
18 to satisfy 1 or more of such requirements, and
19 either—

20 “(A) substantially corrects (to the extent
21 possible) such failure before the date the plan
22 becomes subject to a plan examination for the
23 applicable year (as determined under rules pre-
24 scribed by the Secretary), or



1 “(B) substantially corrects (to the extent
2 possible) such failure on or after such date.

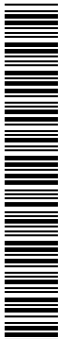
3 If the plan satisfies the requirement under subpara-
4 graph (B), the Secretary may require the sponsoring
5 employer to make a payment to the Secretary in an
6 amount that does not exceed an amount that bears
7 a reasonable relationship to the severity of the plan’s
8 failure to satisfy the requirements of this section.”.

9 (b) APPLICATION TO CASH OR DEFERRED ARRANGE-
10 MENTS.—Section 401(k) is amended by inserting after
11 paragraph (12) the following new paragraph:

12 “(13) PROTECTION FROM DISQUALIFICATION.—
13 Rules similar to the rules set forth in section
14 401(a)(35) shall apply for purposes of determining
15 whether a cash or deferred arrangement is a quali-
16 fied cash or deferred arrangement.”.

17 (c) APPLICATION TO SECTION 403(b) ANNUITY CON-
18 TRACTS.—Section 403(b) is amended by inserting after
19 paragraph (12) the following:

20 “(13) CORRECTION OF ERRORS.—For purposes
21 of determining whether the exclusion from gross in-
22 come under paragraph (1) is applicable to an em-
23 ployee for any taxable year, rules similar to the rules
24 set forth in section 401(a)(35) shall apply to any an-
25 nuity contract purchased under this subsection or



1 any plan established to meet the requirements of
2 this subsection.”.

3 (d) INCOME INCLUSION FOR DISQUALIFICATION NOT
4 APPLICABLE TO NONHIGHLY COMPENSATED EMPLOY-
5 EES.—Section 402(b) (relating to taxability of beneficiary
6 of nonexempt trust) is amended by striking paragraph (4)
7 and inserting the following:

8 “(4) INCOME INCLUSION FOR DISQUALIFICA-
9 TION NOT APPLICABLE TO NONHIGHLY COM-
10 PENSATED EMPLOYEES.—Paragraphs (1) and (2)
11 shall not apply to employees who are not highly com-
12 pensated employees.

13 “(5) FAILURE TO MEET REQUIREMENTS OF
14 SECTION 401(a)(26) OR 410(b).—If 1 of the reasons
15 a trust is not exempt from tax under section 501(a)
16 is the failure of the plan to meet the requirements
17 of section 401(a)(26) or 410(b), then a highly com-
18 pensated employee shall, in lieu of the amount deter-
19 mined under paragraph (1) or (2), include in gross
20 income for the taxable year with or within which the
21 taxable year of the trust ends an amount equal to
22 the vested accrued benefit of such employee (other
23 than the employee’s investment in the contract) as
24 of the close of such taxable year of the trust.



1 “(6) HIGHLY COMPENSATED EMPLOYEE.—For
2 purposes of this subsection, the term ‘highly com-
3 pensated employee’ has the meaning given such term
4 by section 414(q).”.

5 (e) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect on the date of enactment of
7 this Act.

8 **SEC. 807. QUALIFIED PRERETIREMENT SURVIVOR ANNU-**
9 **ITY.**

10 (a) AMENDMENTS TO THE INTERNAL REVENUE
11 CODE OF 1986.—

12 (1) REPEAL OF AGE 35 WAIVER LIMITATION.—
13 Subparagraph (B) of section 417(a)(6) (defining ap-
14 plicable election period) is amended by striking “the
15 plan year in which the participant attains age 35”
16 and inserting “plan participation”.

17 (2) CONFORMING AMENDMENTS.—

18 (A) Section 417(a)(6) is amended by strik-
19 ing the last sentence.

20 (B) Section 417(a)(3)(B) is amended—

21 (i) in clause (ii) by striking subclause
22 (I) and redesignating subclause (II), (III),
23 and (IV) as subclause (I), (II), and (III),
24 respectively, and

25 (ii) striking the last sentence.



1 (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT
2 INCOME SECURITY ACT OF 1974.—

3 (1) REPEAL OF AGE 35 WAIVER LIMITATION.—

4 Subparagraph (B) of section 205(c)(7) of the Em-
5 ployee Retirement Income Security Act of 1974 (29
6 U.S.C. 1055(c)(7)(B)) is amended by striking “the
7 plan year in which the participant attains age 35”
8 and inserting “plan participation”.

9 (2) CONFORMING AMENDMENTS.—

10 (A) Section 205(c)(7) of such Act is
11 amended by striking the last sentence.

12 (B) Section 205(c)(3)(B) of such Act is
13 amended—

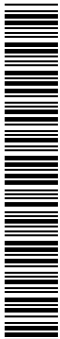
14 (i) in clause (ii) by striking subclause
15 (I) and redesignating subclause (II), (III),
16 and (IV) as subclause (I), (II), and (III),
17 respectively, and

18 (ii) striking the last sentence.

19 (c) EFFECTIVE DATE.—

20 (1) IN GENERAL.—The amendments made by
21 this section shall apply to years beginning after De-
22 cember 31, 2003.

23 (2) SPECIAL RULES.—A plan shall not be treat-
24 ed as having failed to comply with section
25 417(a)(3)(B) of the Internal Revenue Code of 1986



1 and section 205(c)(3)(B) of the Employee Retirement
2 Income Security Act of 1974 due to the failure
3 to provide an explanation required by reason of the
4 amendments made by this section if such explanation
5 is provided by a date that is one year after
6 the date of enactment of this Act or by a later date
7 (not later than 3 years after the date of enactment
8 of this Act) determined under rules prescribed by
9 the Secretary of the Treasury. With respect to a
10 participant, if an explanation required by such section
11 417(a)(3)(B) and such section 205(c)(3)(B) is
12 permitted to be provided at a later date by reason
13 of the preceding sentence, an election under section
14 417(a)(1)(A)(i) of such Code and section
15 205(c)(1)(A)(i) of the Employee Retirement Income
16 Security Act of 1974 to waive a qualified preretirement
17 survivor annuity shall not take effect unless
18 such explanation has been provided with respect to
19 such participant by a date that is no later than a
20 reasonable period prior to the date of the election.

21 **SEC. 808. COST-OF-LIVING ADJUSTMENT OF \$5,000 CASH-**
22 **OUT AMOUNT.**

23 (a) AMENDMENTS TO THE INTERNAL REVENUE
24 CODE OF 1986.—



1 (1) IN GENERAL.—Paragraph (11) of section
2 411(a) (relating to restrictions on certain mandatory
3 distributions) is amended by adding at the end the
4 following new subparagraph:

5 “(E) COST-OF-LIVING ADJUSTMENT.—The
6 Secretary shall adjust annually the \$5,000
7 amount in subparagraph (A) for increases in
8 the cost-of-living at the same time and in the
9 same manner as adjustments under section
10 415(d); except that the base period shall be the
11 calendar quarter beginning July 1, 2003, and
12 any increase which is not a multiple of \$500
13 shall be rounded to the next lowest multiple of
14 \$500.”.

15 (2) CONFORMING AMENDMENT.—Clause (ii) of
16 section 401(a)(31)(B) is amended by striking
17 “\$5,000” and inserting “the amount in effect under
18 section 411(a)(11)(A)”.

19 (b) AMENDMENT TO THE EMPLOYEE RETIREMENT
20 INCOME SECURITY ACT OF 1974.—Subsection (e) of sec-
21 tion 203 of the Employee Retirement Income Security Act
22 of 1974 (29 U.S.C. 1053(e)) is amended by adding at the
23 end the following new paragraph:

24 “(5) The Secretary of the Treasury shall adjust an-
25 nually the \$5,000 amount in paragraph (1) for increases



1 in the cost-of-living at the same time and in the same
2 manner as adjustments under section 415(d) of the Inter-
3 nal Revenue Code of 1986; except that the base period
4 shall be the calendar quarter beginning July 1, 2003, and
5 any increase which is not a multiple of \$500 shall be
6 rounded to the next lowest multiple of \$500.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to years beginning after December
9 31, 2003.

10 **SEC. 809. CATCH-UP CONTRIBUTIONS.**

11 (a) NONDISCRIMINATION REQUIREMENT MOVED.—

12 (1) IN GENERAL.—Paragraph (4) of section
13 401(a) (relating to nondiscrimination requirements
14 for qualification) is amended to read as follows:

15 “(4) NONDISCRIMINATION.—

16 “(A) IN GENERAL.—If the contributions or
17 benefits provided under the plan do not dis-
18 criminate in favor of highly compensated em-
19 ployees (within the meaning of section 414(q)).

20 “(B) CERTAIN EMPLOYEES EXCLUDED.—

21 For purposes of this paragraph, there shall be
22 excluded from consideration employees de-
23 scribed in section 410(b)(3)(A) and (C).

24 “(C) SPECIAL RULES RELATING TO CATCH-
25 UP CONTRIBUTIONS.—



1 “(i) IN GENERAL.—An applicable em-
2 ployer plan shall be treated as failing to
3 meet the nondiscrimination requirements
4 under subparagraph (A) with respect to
5 benefits, rights, and features unless the
6 plan allows all eligible participants to make
7 the same election with respect to the addi-
8 tional elective deferrals under section
9 414(v).

10 “(ii) AGGREGATION.—Except as pro-
11 vided in regulations prescribed by the Sec-
12 retary, for purposes of clause (i), all plans
13 maintained by employers who are treated
14 as a single employer under subsection (b),
15 (c), (m), or (o) of section 414 shall be
16 treated as 1 plan, except that a plan de-
17 scribed in clause (i) of section
18 410(b)(6)(C) shall not be treated as a plan
19 of the employer until the expiration of the
20 transition period with respect to such plan
21 (as determined under clause (ii) of such
22 section).

23 “(iii) DEFINITIONS.—For purposes of
24 this subparagraph, the terms ‘applicable
25 employer plan’, ‘eligible participants’, and



1 ‘elective deferral’ have the meaning given
2 such terms by section 414(v).”.

3 (2) CONFORMING AMENDMENT.—Section 414(v) is
4 amended by striking paragraph (4) and redesignating
5 paragraphs (5) and (6) as paragraphs (4) and (5), respec-
6 tively.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect as if included in section
9 631(a) of the Economic Growth and Tax Relief Reconcili-
10 ation Act of 2001.

11 **SEC. 810. REVERSE MATCH SALARY REDUCTION ARRANGE-**
12 **MENT SIMPLIFIED EMPLOYEE ANNUITY.**

13 (a) IN GENERAL.—Subsection (k) of section 408 (de-
14 fining simplified employee pension) is amended by redesign-
15 ating paragraphs (7), (8), and (9) as paragraphs (8), (9),
16 and (10), respectively, and by inserting after paragraph
17 (6) the following new paragraph:

18 “(7) REVERSE MATCH SALARY REDUCTION AR-
19 RANGEMENT SIMPLIFIED EMPLOYEE ANNUITY.—

20 “(A) EMPLOYEE MAY ELECT SALARY RE-
21 DUCTION ARRANGEMENT.—

22 “(i) IN GENERAL.—A simplified em-
23 ployee pension shall not fail to meet the re-
24 quirements of this subsection for a year
25 merely because, under the terms of the



1 pension, an employee may elect to have the
2 employer make payments—

3 “(I) as elective employer con-
4 tributions to the simplified employee
5 pension on behalf of the employee, or

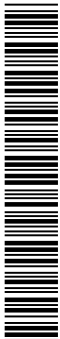
6 “(II) to the employee directly in
7 cash.

8 “(ii) LIMITATIONS ON ELECTIVE DE-
9 FERRALS.—Clause (i) shall not apply to a
10 simplified employee pension unless the re-
11 quirements of section 401(a)(30) are met.

12 “(B) EXCEPTION WHERE MORE THAN 25
13 EMPLOYEES.—This paragraph shall not apply
14 with respect to any year in the case of a sim-
15 plified employee pension maintained by an em-
16 ployer with more than 25 employees who were
17 eligible to participate (or would have been re-
18 quired to be eligible to participate if a pension
19 was maintained) at any time during the pre-
20 ceding year. For purposes of this subparagraph,
21 rules similar to the rules of sections
22 408(p)(2)(C)(ii) and 408(p)(10) shall apply.

23 “(C) DEFERRAL PERCENTAGE.—

24 “(i) IN GENERAL.—The deferral per-
25 centage for any employee for a year may



1 not exceed double the percentage which is
2 the ratio that—

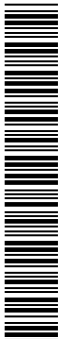
3 “(I) the amount of employer con-
4 tributions (other than elective or
5 matching contributions) actually paid
6 over to the simplified employee pen-
7 sion on behalf of the employee for the
8 year, bears to

9 “(II) the employee’s compensa-
10 tion (not in excess of the amount in
11 effect under paragraph (6)(D)(ii)) for
12 the year.

13 “(ii) DEFINITION.—For purposes of
14 this paragraph, the deferral percentage of
15 an employee for a year shall be the ratio
16 which—

17 “(I) the amount of elective em-
18 ployer contributions actually paid over
19 to the simplified employee pension on
20 behalf of the employee for the year,
21 bears to

22 “(II) the employee’s compensa-
23 tion (not in excess of the amount in
24 effect under paragraph (6)(D)(ii)) for
25 the year.



1 “(D) EXCEPTION FOR STATE AND LOCAL
2 AND TAX-EXEMPT PENSIONS.—This paragraph
3 shall not apply to a simplified employee pension
4 maintained by a State or local government or
5 political subdivision thereof, or any agency or
6 instrumentality thereof.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Subparagraph (B) of section 402(h)(1) is
9 amended by striking “408(k)(6)” and inserting
10 “408(k)(6) or 408(k)(7)”.

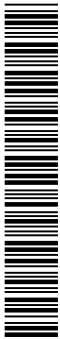
11 (2) Paragraph (2) of section 408(k) is amended
12 by striking “subsection (k)(6)” and inserting “sub-
13 section (k)(6) or (k)(7)”.

14 (3) Subparagraphs (C) and (D) of section
15 408(k)(3) are each amended by striking “paragraph
16 (6)” and inserting “paragraph (6) or (7)”.

17 (4) Subpagraph (C) of section 414(u)(1) is
18 amended by striking “408(k)(6)” and inserting
19 “408(k)(6), 408(k)(7)”.

20 (5) Subparagraph (C) of section 3121(a)(5) is
21 amended by striking “408(k)(6)” and inserting
22 “408(k)(6) or 408(k)(7)”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to years beginning after December
25 31, 2003.



1 **SEC. 811. LEVEL DOLLAR CONTRIBUTIONS TO SEPS.**

2 (a) IN GENERAL.—Subparagraph (C) of section
3 408(k)(3) (relating to contributions must bear uniform re-
4 lationship to total compensation) is amended by inserting
5 before the period at the end the following: “or unless such
6 contributions are a uniform dollar amount on behalf of
7 each such employee.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to years beginning after December
10 31, 2003.

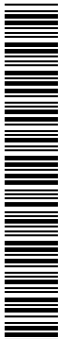
11 **SEC. 812. TAX ON NONDEDUCTIBLE CONTRIBUTIONS NOT**
12 **TO APPLY TO CERTAIN NONTRADE OR BUSI-**
13 **NESS SEP CONTRIBUTIONS.**

14 (a) IN GENERAL.—Subparagraph (B) of section
15 4972(c)(6) (relating to exceptions) is amended—

16 (1) by striking “408(p) or” and inserting
17 “408(p),”, and

18 (2) by inserting after “401(k)(11))” the fol-
19 lowing: “, or a simplified employee pension (within
20 the meaning of section 408(k))”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to years beginning after December
23 31, 2003.



1 **SEC. 813. CLARIFICATION OF FIDUCIARY DUTY.**

2 (a) IN GENERAL.—Paragraph (3) of section 404(c)
3 of the Employee Retirement Income Security Act of 1974
4 (29 U.S.C. 1104(c)(3)) is amended to read as follows:

5 “(3) In the case of a pension plan which makes
6 a transfer to an individual retirement account or an-
7 nuity of a designated trustee or issuer under section
8 401(a)(31)(B) of the Internal Revenue Code of
9 1986, the fiduciary who selects the individual retire-
10 ment account or annuity and the initial investments
11 thereunder shall be subject to this part only with re-
12 spect to such initial selections. Such fiduciary shall
13 have no liability under this title if such selections are
14 made in a manner consistent with guidance provided
15 by the Secretary.”.

16 (b) EFFECTIVE DATE.—The amendment made this
17 section shall take effect as if included in section 657 of
18 the Economic Growth and Tax Relief Reconciliation Act
19 of 2001.

20 **SEC. 814. MULTIEMPLOYER PLAN CLARIFICATION.**

21 (a) IN GENERAL.—Subsection (b) of section 413 is
22 amended by adding at the end the following:

23 “(10) TREATMENT AS NOT AN EMPLOYER
24 PLAN.—The Secretary may prescribe rules under
25 which, for purposes of one or more specified provi-
26 sions of this part relating directly or indirectly to



1 nondiscrimination in benefits or coverage, a plan de-
2 scribed in section 414(f) is not treated as a plan of
3 or maintained by the employers of the participating
4 employees.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply as of the date of enactment of this
7 Act.

8 **SEC. 815. CLARIFICATION OF STATUS OF YOUNG MEN’S**
9 **CHRISTIAN ASSOCIATION RETIREMENT**
10 **FUND.**

11 (a) IN GENERAL.—Section 1012(c)(4)(C)(i) of the
12 Tax Reform Act of 1986 (100 Stat. 2394) is amended
13 by adding before the comma at the end thereof the fol-
14 lowing: “(whose retirement plans (including the reserve
15 accounts for such plans) are deemed to be plans described
16 in section 403(b)(9)(B) of the Internal Revenue Code of
17 1986 for years beginning on or after January 1, 2003)”.

18 (b) CLARIFICATION OF SCOPE OF CHURCH PLAN
19 STATUS.—

20 (1) NONDISCRIMINATION TESTING.—Any fund
21 or plan described in subsection (a) shall be subject
22 to the nondiscrimination requirements of section
23 403(b)(12) of such Code and shall not be treated as
24 a contract purchased by a church for purposes of
25 section 403(b)(1)(D) of such Code.



1 (2) APPLICABILITY OF 403(b)(9) RULES GEN-
2 ERALLY.—Nothing in this section shall exempt the
3 retirement fund of the YMCA from complying with
4 the rules otherwise applicable to a plan described in
5 section 403(b)(9)(B) of such Code in order for the
6 treatment described in section 403(b)(1) of such
7 Code to apply.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to years beginning after December
10 31, 2002.

11 **TITLE IX—EXPANDING RETIRE-**
12 **MENT SAVINGS OPPORTUNI-**
13 **TIES FOR EMPLOYEES OF**
14 **TAX-EXEMPT ORGANIZATIONS**
15 **AND GOVERNMENTS**

16 **SEC. 901. DEFERRED COMPENSATION PLANS OF TAX-EX-**
17 **EMPT ORGANIZATIONS.**

18 (a) IN GENERAL.—Subpart B of part II of sub-
19 chapter E of chapter 1 (relating to taxable year for which
20 items of gross income included) is amended by inserting
21 after section 458 the following new section:

22 **“SEC. 459. DEFERRED COMPENSATION PLANS OF TAX-EX-**
23 **EMPT ORGANIZATIONS.**

24 “(a) IN GENERAL.—In the case of a plan of an orga-
25 nization (other than a governmental unit) exempt from tax



1 under this subtitle providing for a deferral of
2 compensation—

3 “(1) the excess deferred compensation shall be
4 included in the gross income of the participant or
5 beneficiary for the 1st taxable year in which there
6 is no substantial risk of forfeiture of the rights to
7 such compensation, and

8 “(2) the tax treatment of any amount made
9 available under the plan to a participant or bene-
10 ficiary shall be determined under section 72 (relat-
11 ing to annuities, etc.).

12 “(b) EXCEPTIONS.—Subsection (a) shall not apply
13 to—

14 “(1) a plan described in section 401(a) which
15 includes a trust exempt from tax under section
16 501(a),

17 “(2) an annuity plan or contract described in
18 section 403,

19 “(3) that portion of any plan which consists of
20 a transfer of property described in section 83, and

21 “(4) that portion of any plan which consists of
22 a trust to which section 402(b) applies.

23 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
24 poses of this section—



1 “(1) EXCESS DEFERRED COMPENSATION.—The
2 term ‘excess deferred compensation’ means with re-
3 spect to a participant for any taxable year the excess
4 of the present value of the participant’s deferred
5 compensation for such year over the greater of—

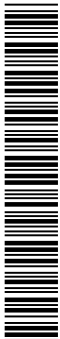
6 “(A) one third of the sum of such value
7 plus the participant’s compensation (as defined
8 in Code section 415(c)(3)) for such year, or

9 “(B) the amount in effect for such year
10 under section 457(b)(2) (as modified by any ad-
11 justment permitted under subsection (b)(3) or
12 section 414(v)).

13 “(2) PLAN INCLUDES ARRANGEMENTS, ETC.—
14 The term ‘plan’ includes any agreement or arrange-
15 ment.

16 “(3) SUBSTANTIAL RISK OF FORFEITURE.—The
17 rights of a person to compensation are subject to a
18 substantial risk of forfeiture if such person’s rights
19 to such compensation are conditioned upon the fu-
20 ture performance of substantial services by any indi-
21 vidual.

22 “(4) SPECIAL RULES.—Rules similar to the
23 rules of section 457(b)(6) and paragraphs (2), (3),
24 (4), (6), (7), (8), (9) (as in effect before the enact-
25 ment of the Pension Preservation and Savings Ex-



1 pansion Act of 2003), (10), (11), (12), and (13) of
2 section 457(e) shall apply for purposes of this sec-
3 tion.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) The heading for section 457 is amended by
6 striking “AND TAX-EXEMPT ORGANIZA-
7 TIONS”.

8 (2) Section 457(a)(1) is amended by striking
9 “income—” and inserting “and all that follows and
10 inserting the following: “income is paid to the par-
11 ticipant or other beneficiary.”.

12 (3) Section 457(b) is amended by striking
13 “which is established and maintained by an em-
14 ployer which is described in subsection (e)(1)(A)
15 and”.

16 (4) Section 457(d)(1)(C) is amended by strik-
17 ing “in the case of a plan maintained by an em-
18 ployer described in subsection (e)(1)(A),”.

19 (5) Section 457(d)(3) is amended—

20 (A) by striking “of an employer described
21 in subsection (e)(1)(A)”, and

22 (B) by striking “FOR GOVERNMENT PLAN”.

23 (6) Paragraph (9) of section 457(e) is amended
24 to read as follows:



1 “(9) EXCEPTION TO DISTRIBUTION REQUIRE-
2 MENTS.—

3 “(A) A plan shall not be treated as failing
4 to meet the distribution requirements of sub-
5 section (d) by reason of a distribution to which
6 this paragraph applies.

7 “(B) This paragraph applies to a distribu-
8 tion if—

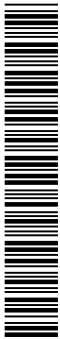
9 “(i) the distribution includes the total
10 amount payable to a participant under the
11 plan,

12 “(ii) the portion of such amount
13 which is not attributable to rollover con-
14 tributions (as defined in section
15 411(a)(11)(D)) does not exceed the dollar
16 limit under section 411(a)(11)(A),

17 “(iii) no amount has been deferred
18 under the plan with respect to such partici-
19 pant during the 2-year period ending on
20 the date of the distribution, and

21 “(iv) there has been no prior distribu-
22 tion under the plan to which this para-
23 graph applied.”.

24 (7) Section 457(e)(1) is amended to read as fol-
25 lows:



1 “(1) ELIGIBLE EMPLOYER.—The term ‘eligible
2 employer’ means a State, political subdivision of a
3 State, and any agency or instrumentality of a State
4 or political subdivision of a State.”.

5 (8) Section 457(e)(16)(A) is amended by strik-
6 ing “established and maintained by an employer de-
7 scribed in subsection (e)(1)(A)”.

8 (9) Section 457(g) is amended—

9 (A) in paragraph (1) by striking “main-
10 tained by an eligible employer described in sub-
11 section (e)(1)(A)”, and

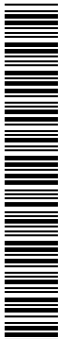
12 (B) in the heading by striking “GOVERN-
13 MENTAL”.

14 (10) Section 25B(d)(1)(B)(ii) is amended by
15 striking “of an eligible employer described in section
16 457(e)(1)(A)”.

17 (11) Section 72(t)(9) is amended by striking
18 “of an eligible employer described in section
19 457(e)(1)(A)”.

20 (12) Section 402(c)(8)(B)(v) is amended by
21 striking “which is maintained by an eligible em-
22 ployer described in section 457(e)(1)(A)”.

23 (13) Section 408(q)(3)(A) is amended by strik-
24 ing “of an eligible employer described in section
25 457(e)(1)(A)”.



1 (14) Section 414(v)(6)(A)(iii) is amended by
2 striking “of an eligible employer described in section
3 457(e)(1)(A)”.

4 (15) Section 3401(a)(12)(E) is amended by
5 striking “which is maintained by an eligible em-
6 ployer described in section 457(e)(1)(A)”.

7 (16) Section 3405(d)(2)(B)(iv) is amended by
8 striking “and which is maintained by an eligible em-
9 ployer described in section 457(e)(1)(A)”.

10 (17) Section 4980G(f)(2)(B) (as added by this
11 Act) is amended by striking “of an eligible employer
12 described in section 457(e)(1)(A)”.

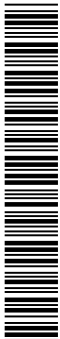
13 (18) Section 414(w)(5)(B)(ii) (as added by this
14 Act) is amended by striking “of an eligible employer
15 described in section 457(e)(1)(A)”.

16 (19) Section 414(x)(8(A)(ii) is amended by
17 striking “of an eligible employer described in section
18 457(e)(1)(A)”.

19 (c) CLERICAL AMENDMENTS.—

20 (1) The table of sections for subpart B of part
21 II of subchapter E of chapter 1 is amended by in-
22 serting after the item relating to section 458 the fol-
23 lowing new item:

 “Sec. 459. Deferred compensation plans of tax-exempt organiza-
 tions.”.



1 (2) The item in the table of sections for subpart
2 B of part II of subchapter E of chapter 1 relating
3 to section 457 is amended to read as follows:

 “Sec. 457. Deferred compensation plans of State and local gov-
 ernments.”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2003.

7 **SEC. 902. INAPPLICABILITY OF 10 PERCENT ADDITIONAL**
8 **TAX ON EARLY DISTRIBUTIONS OF PENSION**
9 **PLANS OF PUBLIC SAFETY EMPLOYEES.**

10 (a) IN GENERAL.—Section 72(t)(2) of the Internal
11 Revenue Code of 1986 (relating to subsection not to apply
12 to certain distributions) is amended by adding at the end
13 the following new subsection:

14 “(G) DROP DISTRIBUTIONS TO QUALIFIED
15 PUBLIC SAFETY EMPLOYEES IN GOVERN-
16 MENTAL PLANS.—

17 “(i) IN GENERAL.—Distributions to
18 an individual who is a qualified public safe-
19 ty employee from a governmental plan
20 within the meaning of section 414(d) to
21 the extent such distributions are attrib-
22 utable to a DROP benefit.

23 “(ii) DEFINITIONS.—For purposes of
24 this subparagraph—



1 “(I) The term ‘DROP benefit’
2 means a feature of a governmental
3 plan under which an employee elects
4 to receive credits to an account (in-
5 cluding a notional account) in the
6 plan in lieu of increases in the em-
7 ployee’s accrued pension benefit based
8 on years of service after the effective
9 date of the DROP election.

10 “(II) The term ‘qualified public
11 safety employee’ means any employee
12 of any police department or fire de-
13 partment organized and operated by a
14 State or political subdivision of a
15 State if the employee provides police
16 protection, firefighting services, or
17 emergency medical services for any
18 area within the jurisdiction of such
19 State or political subdivision.”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to distributions after the date of
22 enactment of this Act.



1 **SEC. 903. CLARIFICATIONS REGARDING PURCHASE OF PER-**
2 **MISSIVE SERVICE CREDIT.**

3 (a) IN GENERAL.—Subparagraph (A) of section
4 457(e)(17) (relating to trustee-to-trustee transfers to pur-
5 chase permissive service credit), and subparagraph (A) of
6 section 403(b)(13) (relating to trustee-to-trustee transfers
7 to purchase permissive service credit), are both amended
8 by striking “section 415(n)(3)(A)” and inserting “section
9 415(n)(3) (without regard to subparagraphs (B) and (C)
10 thereof)”.

11 (b) TRANSFERS MAY BE FROM ANY GOVERNMENTAL
12 PLAN.—Section 457(e)(17), and section 403(b)(13), are
13 both amended by inserting “from any governmental plan
14 (as so defined)” after “414(d))” and by adding at the end
15 the following sentence: “Amounts transferred under this
16 paragraph shall be distributed solely in accordance with
17 the terms of such defined benefit plan.”.

18 (c) SERVICE CREDIT.—Clause (ii) of section
19 415(n)(3)(A) is amended to read as follows:

20 “(ii) which relates to benefits with re-
21 spect to which such participant is not oth-
22 erwise entitled, and”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect as if included in the amend-
25 ments made by section 647 of the Economic Growth and
26 Tax Relief Reconciliation Act of 2001.



1 **SEC. 904. CERTAIN ROLLOVERS OF BENEFITS PERMITTED.**

2 (a) IN GENERAL.—Paragraph (10) of section 457(e)
3 is amended—

4 (1) by striking “A participant” and inserting
5 “(A) EXCLUSION FROM INCOME.—A participant”,
6 and

7 (2) by adding at the end the following:

8 “(B) TRANSFERS PERMITTED.—A transfer
9 from one such plan to another such plan of the
10 entire benefit of one or more participants shall
11 not fail to be permitted solely because all assets
12 of the transferor plan are not transferred to the
13 transferee plan.”.

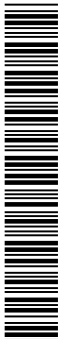
14 (b) EFFECTIVE DATE.—

15 (1) IN GENERAL.—The amendments made by
16 this section shall apply to taxable years beginning
17 after December 31, 2003.

18 (2) SPECIAL RULE.—An individual shall not be
19 precluded from participating in an eligible deferred
20 compensation plan by reason of having received a
21 distribution under Code section 457(e)(9) as in ef-
22 fect prior to the enactment of the Small Business
23 Job Protection Act of 1996.

24 **SEC. 905. MINIMUM DISTRIBUTION RULES.**

25 The Secretary of the Treasury shall issue regulations
26 under which a governmental plan (as defined in section

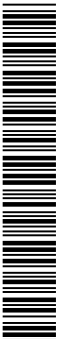


1 414(d) of the Internal Revenue Code of 1986) shall, for
2 all years to which section 401(a)(9) of such Code applies
3 to such plan, be treated as having complied with such sec-
4 tion 401(a)(9) if such plan complies with a reasonable
5 good faith interpretation of such section 401(a)(9).

6 **SEC. 906. CHURCH PLAN RULE.**

7 (a) IN GENERAL.—Paragraph (11) of section 415(b)
8 is amended by adding at the end the following: “Subpara-
9 graph (B) of paragraph (1) shall not apply to a plan main-
10 tained by an organization described in section
11 3121(w)(3)(A) except with respect to highly compensated
12 benefits. For purposes of this paragraph, the term ‘highly
13 compensated benefits’ means any benefits accrued for an
14 employee in any year on or after the first year in which
15 such employee is a highly compensated employee (as de-
16 fined in section 414(q)) of the organization described in
17 section 3121(w)(3)(A). For purposes of applying para-
18 graph (1)(B) to highly compensated benefits, all benefits
19 of the employee otherwise taken into account (without re-
20 gard to this paragraph) shall be taken into account.”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to years beginning after December
23 31, 2003.



1 **SEC. 907. PLANS MAINTAINED BY GOVERNMENTS AND TAX-**
2 **EXEMPT ORGANIZATIONS.**

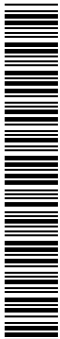
3 (a) IN GENERAL.—Subparagraph (F) of section
4 415(b)(2) is amended to read as follows:

5 “(F) PLANS MAINTAINED BY GOVERN-
6 MENTS AND TAX EXEMPT ORGANIZATIONS.—

7 “(i) IN GENERAL.—In the case of a
8 governmental plan (within the meaning of
9 section 414(d)), a plan maintained by an
10 organization (other than a governmental
11 unit) exempt from tax under this subtitle,
12 or a qualified merchant marine plan, sub-
13 paragraph (C) shall be applied as if the
14 following sentence were added at the end:
15 ‘The reduction under this subparagraph
16 shall not reduce the limitation of para-
17 graph (1)(A) below (i) \$130,000 if the
18 benefit begins at or after age 55, or (ii) if
19 the benefit begins before age 55, the equiv-
20 alent of the \$130,000 limitation at age
21 55.’.

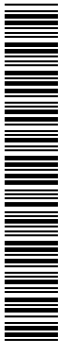
22 “(ii) DEFINITIONS.—For purposes of
23 this subparagraph—

24 “(I) QUALIFIED MERCHANT MA-
25 RINE PLAN.—The term ‘qualified mer-
26 chant marine plan’ means a plan in



1 existence on January 1, 1986, the
2 participants in which are merchant
3 marine officers holding licenses issued
4 by the Secretary of Transportation
5 under title 46, United States Code.

6 “(II) EXEMPT ORGANIZATION
7 PLAN.—A plan shall be treated as a
8 plan maintained by an organization
9 (other than a governmental unit) ex-
10 empt from tax under this subtitle if at
11 least 50 percent of the employees ben-
12 efitting under the plan are employees
13 of an organization (other than govern-
14 mental unit) exempt from tax under
15 this subtitle. If less than 50 percent
16 of the employees benefiting under a
17 plan are employees of an organization
18 (other than a governmental unit) ex-
19 empt from tax under this subtitle, the
20 plan shall be treated as a plan main-
21 tained by an organization (other than
22 a governmental unit) exempt from
23 tax under this subtitle only with re-
24 spect to employees of such an organi-
25 zation.”.



1 (b) COST-OF-LIVING ADJUSTMENTS.—

2 (1) PLANS MAINTAINED BY GOVERNMENTS AND
3 TAX EXEMPT ORGANIZATIONS.—Paragraph (1) of
4 section 415(d) is amended by striking “and” at the
5 end of subparagraph (B), by redesignating subpara-
6 graph (C) as subparagraph (D), and by inserting
7 after subparagraph (B) the following new subpara-
8 graph:

9 “(C) the \$130,000 amount in subsection
10 (b)(2)(F), and”.

11 (2) BASE PERIOD.—Paragraph (3) of section
12 415(d) is amended by redesignating subparagraph
13 (D) as subparagraph (E) and by inserting after sub-
14 paragraph (C) the following new subparagraph:

15 “(D) \$130,000 AMOUNT.—The base period
16 taken into account for purposes of paragraph
17 (1)(C) is the calendar quarter beginning July 1,
18 2003.”.

19 (3) ROUNDING RULE RELATING TO DEFINED
20 BENEFIT PLANS.—Subparagraph (B) of section
21 415(d)(4) is amended to read as follows:

22 “(B) \$130,000 AND \$40,000 AMOUNTS.—
23 Any increase under subparagraph (C) or (D) of
24 paragraph (1) which is not a multiple of \$1,000



1 shall be rounded to the next lowest multiple of
2 \$1,000.”.

3 (4) CONFORMING AMENDMENT.—Subparagraph
4 (E) of section 415(d)(3) (as amended by paragraph
5 (2)) is amended by striking “paragraph (1)(C)” and
6 inserting “paragraph (1)(D)”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to years beginning after December
9 31, 2003.

10 **TITLE X—RESTRICTING**
11 **EXCESSIVE REMUNERATION**

12 **SEC 1001. GOLDEN PARACHUTE EXCISE TAX TO APPLY TO**
13 **EXCESSIVE EMPLOYEE REMUNERATION PAID**
14 **BY CORPORATION AFTER DECLARATION OF**
15 **BANKRUPTCY.**

16 (a) IN GENERAL.—Section 4999 (relating to golden
17 parachute payments) is amended by redesignating sub-
18 section (c) as subsection (d) and by inserting after sub-
19 section (b) the following new subsection:

20 “(c) TAX ON EXCESSIVE EMPLOYEE REMUNERATION
21 IN THE CASE OF BANKRUPTCY.—

22 “(1) IN GENERAL.—There is hereby imposed a
23 tax on any person who is a covered employee equal
24 to 50 percent of any payment of excessive employee
25 remuneration from a corporation which becomes a



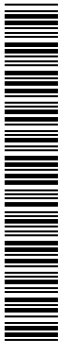
1 debtor in a title 11 or similar case (as defined in
2 section 368(a)(3)(A) of this title, but not including
3 a case under chapter 12 of title 11, United States
4 Code). The tax imposed under subsection (a) shall
5 not apply to the extent that a tax is imposed under
6 this subsection.

7 “(2) SPECIAL RULES RELATING TO EXCESSIVE
8 EMPLOYEE REMUNERATION.—For purposes of this
9 subsection—

10 “(A) EXCESS EMPLOYEE REMUNERATION
11 DEFINED.—The term ‘excess employee remun-
12 eration’ means remuneration paid directly or
13 indirectly to a covered employee during the
14 bankruptcy period—

15 “(i) for which a deduction is not al-
16 lowed under chapter 1 by reason of the ap-
17 plication of section 162(m) or would not be
18 allowed if section 162(m) applied to the
19 covered employee at the time of payment,
20 or

21 “(ii) in the case of remuneration to a
22 covered employee of a corporation that is
23 not a publicly held corporation described in
24 section 162(m)(2), that exceeds
25 \$1,000,000, other than remuneration that



1 meets requirements similar to the stand-
2 ards for performance-based compensation
3 under section 162(m)(4)(C).

4 “(B) Such term shall not include—

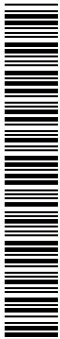
5 “(i) remuneration that, on the date
6 immediately prior to the beginning of the
7 bankruptcy period, was payable to the cov-
8 ered employee under a binding obligation
9 and not subject to a substantial risk of for-
10 feiture,

11 “(ii) remuneration attributable to con-
12 tributions to or benefits from an excess re-
13 tirement plan to the extent that such plan
14 is maintained solely for the purpose of pro-
15 viding benefits to employees in excess of
16 the limitations imposed by 1 or more of
17 sections 401(a)(17), 401(k), 401(m), and
18 415,

19 “(iii) contributions to or benefits from
20 a qualified employer plan (as defined in
21 section 132(m)), or

22 “(iv) any payment that is avoided or
23 approved by a bankruptcy trustee.

24 “(C) BANKRUPTCY PERIOD.—The term
25 ‘bankruptcy period’ means any time during the



1 period beginning 2 years before the date on
2 which the corporation becomes a debtor de-
3 scribed in paragraph (1) and ending on the
4 date such corporation ceases to be such a debt-
5 or.

6 “(D) COVERED EMPLOYEE.—The term
7 ‘covered employee’—

8 “(i) has the meaning given such term
9 by section 162(m)(3), except that such
10 term shall include an individual who is not
11 a covered employee under section
12 162(m)(3) for the taxable year in which
13 such remuneration is paid but who pre-
14 viously was a covered employee within the
15 meaning of section 162(m)(3) during the
16 bankruptcy period, and

17 “(ii) with respect to an employee of a
18 corporation that is not subject to section
19 162(m), includes any employee of such cor-
20 poration who would be subject to the re-
21 quirement described in section
22 162(m)(3)(B) (as modified by this para-
23 graph) if such corporation were a publicly
24 held corporation (as defined in section
25 162(m)(2)).



1 “(E) 100 PERCENT TAX FOR GROSS UP
2 PAYMENTS.—Subsection (b) shall be applied by
3 substituting ‘100 percent’ for ‘50 percent’ to
4 the extent that any payment is made during the
5 bankruptcy period that is contingent upon a tax
6 being imposed under this section.

7 “(E) CHANGE IN OWNERSHIP CONTIN-
8 GENCY NOT TO APPLY.—Subsection (b) shall be
9 applied without regard to clause (i) of section
10 280G(b)(2)(A).”.

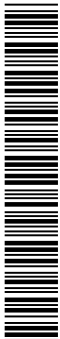
11 (b) EFFECTIVE DATE.—The amendment made this
12 section shall apply to payments received after the date of
13 the enactment of this Act with respect to any title 11 or
14 similar case (as defined in section 4999(c) of the Internal
15 Revenue Code of 1986) commenced after such date.

16 **TITLE XI—DEFINED CONTRIBU-**
17 **TION PLAN PROTECTIONS**

18 **SEC. 1101. PROVISION OF INVESTMENT EDUCATION NO-**
19 **TICES TO PARTICIPANTS.**

20 (a) IN GENERAL.—Section 414 (relating to defini-
21 tions and special rules) is amended by adding at the end
22 the following:

23 “(w) PROVISION OF INVESTMENT EDUCATION
24 NOTICES TO PARTICIPANTS.—



1 “(1) IN GENERAL.—The plan administrator of
2 an applicable pension plan shall provide to each ap-
3 plicable individual an investment education notice
4 described in paragraph (2) at the time of the enroll-
5 ment of the applicable individual in the plan and not
6 less often than quarterly thereafter.

7 “(2) INVESTMENT EDUCATION NOTICE.—An in-
8 vestment education notice is described in this para-
9 graph if such notice contains—

10 “(A) an explanation, for the long-term re-
11 tirement security of participants and bene-
12 ficiaries, of generally accepted investment prin-
13 ciples, including principles of risk management
14 and diversification, and

15 “(B) a discussion of the risk of holding
16 substantial portions of a portfolio in the secu-
17 rity of any one entity, such as employer securi-
18 ties.

19 “(3) UNDERSTANDABILITY.—Each notice re-
20 quired by paragraph (1) shall be written in a man-
21 ner calculated to be understood by the average plan
22 participant and shall provide sufficient information
23 (as determined in accordance with guidance provided
24 by the Secretary) to allow recipients to understand
25 such notice.



1 “(4) FORM AND MANNER OF NOTICES.—The
2 notices required by this subsection shall be in writ-
3 ing, except that such notices may be in electronic or
4 other form to the extent that such form is reason-
5 ably accessible to the applicable individual.

6 “(5) DEFINITIONS.—For purposes of this
7 subsection—

8 “(A) APPLICABLE INDIVIDUAL.—The term
9 ‘applicable individual’ means—

10 “(i) any participant in the applicable
11 pension plan,

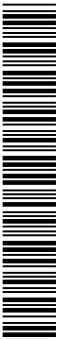
12 “(ii) any beneficiary who is an alter-
13 nate payee (within the meaning of section
14 414(p)(8)) under a qualified domestic rela-
15 tions order (within the meaning of section
16 414(p)(1)(A)), and

17 “(iii) any beneficiary of a deceased
18 participant or alternate payee.

19 “(B) APPLICABLE PENSION PLAN.—The
20 term ‘applicable pension plan’ means—

21 “(i) a plan described in clause (i), (ii),
22 or (iv) of section 219(g)(5)(A), and

23 “(ii) an eligible deferred compensation
24 plan (as defined in section 457(b)) of an



1 eligible employer described in section
2 457(e)(1)(A),
3 which permits any participant to direct the in-
4 vestment of some or all of his account in the
5 plan or under which the accrued benefit of any
6 participant depends in whole or in part on hy-
7 pothetical investments directed by the partici-
8 pant. Such term shall not include a one-partici-
9 pant retirement plan.

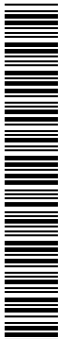
10 “(C) ONE-PARTICIPANT RETIREMENT
11 PLAN DEFINED.—The term ‘one-participant re-
12 tirement plan’ means a retirement plan that—

13 “(i) on the first day of the plan
14 year—

15 “(I) covered only the employer
16 (and the employer’s spouse) and the
17 employer owned the entire business
18 (whether or not incorporated), or

19 “(II) covered only one or more
20 partners (and their spouses) in a busi-
21 ness partnership (including partners
22 in an S or C corporation),

23 “(ii) meets the minimum coverage re-
24 quirements of section 410(b) without being
25 combined with any other plan of the busi-



1 ness that covers the employees of the busi-
2 ness,

3 “(iii) does not provide benefits to any-
4 one except the employer (and the employ-
5 er’s spouse) or the partners (and their
6 spouses),

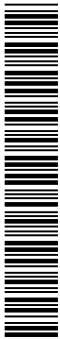
7 “(iv) does not cover a business that is
8 a member of an affiliated service group, a
9 controlled group of corporations, or a
10 group of businesses under common control,
11 and

12 “(v) does not cover a business that
13 leases employees.

14 “(6) CROSS REFERENCE.—For provisions relat-
15 ing to penalty for failure to provide the notice re-
16 quired by this subsection, see section 6652(m).”.

17 (b) PENALTY FOR FAILURE TO PROVIDE NOTICE.—
18 Section 6652 (relating to failure to file certain information
19 returns, registration statements, etc.) is amended by re-
20 designating subsection (m) as subsection (n) and by in-
21 serting after subsection (1) the following new subsection:

22 “(m) FAILURE TO PROVIDE INVESTMENT EDU-
23 CATION NOTICES TO PARTICIPANTS IN CERTAIN
24 PLANS.—In the case of each failure to provide a notice
25 as required by section 414(w) with respect to an applicable



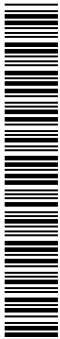
1 individual (as defined in such section), at the time pre-
2 scribed therefore, unless it is shown that such failure is
3 due to reasonable cause and not to willful neglect, there
4 shall be paid, on notice and demand of the Secretary and
5 in the same manner as tax, by the person failing to provide
6 such notice, an amount equal to \$100 for each such fail-
7 ure, but the total amount imposed on such person for all
8 such failures during any calendar year shall not exceed
9 \$500,000.”.

10 (c) EFFECTIVE DATES.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (3), the amendments made by this section
13 shall apply with respect to plan years beginning
14 after December 31, 2003.

15 (2) MODEL INVESTMENT PRINCIPLES.—Not
16 later than the earlier of January 1, 2004, or 120
17 days after the date of the enactment of this Act, the
18 Secretary of the Treasury, in consultation with the
19 Secretary of Labor, shall issue guidance and model
20 notices which meet the requirements of section
21 414(w) of the Internal Revenue Code of 1986 (as
22 added by this section).

23 (3) GOVERNMENTAL PLANS.—In the case of a
24 governmental plan (as defined in section 414(d) of
25 the Internal Revenue Code of 1986), the amend-



1 ments made by this section shall apply with respect
2 to plan years beginning after December 31, 2005.

3 **SEC. 1102. NOTICE OF BLACKOUT PERIODS TO PARTICI-**
4 **PANT OR BENEFICIARY UNDER DEFINED**
5 **CONTRIBUTION PLAN.**

6 (a) IN GENERAL.—Section 414 (relating to defini-
7 tions and special rules) (as amended by this Act) is
8 amended by adding at the end the following:

9 “(x) NOTICE OF BLACKOUT PERIODS TO PARTICI-
10 PANT OR BENEFICIARY UNDER APPLICABLE PENSION
11 PLAN.—

12 “(1) DUTIES OF PLAN ADMINISTRATOR.—In
13 advance of the commencement of any blackout pe-
14 riod with respect to an applicable pension plan, the
15 plan administrator shall notify the plan participants
16 and beneficiaries who are affected by such action in
17 accordance with this subsection.

18 “(2) NOTICE REQUIREMENTS.—

19 “(A) IN GENERAL.—The notices described
20 in paragraph (1) shall be written in a manner
21 calculated to be understood by the average plan
22 participant and shall include—

23 “(i) the reasons for the blackout pe-
24 riod,



1 “(ii) an identification of the invest-
2 ments and other rights affected,

3 “(iii) the expected beginning date and
4 length of the blackout period,

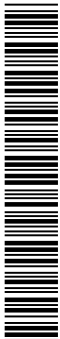
5 “(iv) in the case of investments af-
6 fected, a statement that the participant or
7 beneficiary should evaluate the appro-
8 priateness of their current investment deci-
9 sions in light of their inability to direct or
10 diversify assets credited to their accounts
11 during the blackout period, and

12 “(v) such other matters as the Sec-
13 retary may require by regulation.

14 “(B) NOTICE TO PARTICIPANTS AND
15 BENEFICIARIES.—Except as otherwise provided
16 in this subsection, notices described in para-
17 graph (1) shall be furnished to all participants
18 and beneficiaries under the plan to whom the
19 blackout period applies at least 30 days in ad-
20 vance of the blackout period.

21 “(C) EXCEPTION TO 30-DAY NOTICE RE-
22 QUIREMENT.—In any case in which—

23 “(i) a deferral of the blackout period
24 would violate the requirements of subpara-
25 graph (A) or (B) of section 404(a)(1) of



1 the Employee Retirement Income Security
2 Act of 1974, and a fiduciary of the plan
3 reasonably so determines in writing, or

4 “(ii) the inability to provide the 30-
5 day advance notice is due to events that
6 were unforeseeable or circumstances be-
7 yond the reasonable control of the plan ad-
8 ministrator, and a fiduciary of the plan
9 reasonably so determines in writing,

10 subparagraph (B) shall not apply, and the no-
11 tice shall be furnished to all participants and
12 beneficiaries under the plan to whom the black-
13 out period applies as soon as reasonably pos-
14 sible under the circumstances unless such a no-
15 tice in advance of the termination of the black-
16 out period is impracticable.

17 “(D) WRITTEN NOTICE.—The notice re-
18 quired to be provided under this subsection
19 shall be in writing, except that such notice may
20 be in electronic or other form to the extent that
21 such form is reasonably accessible to the recipi-
22 ent.

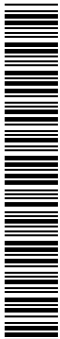
23 “(E) NOTICE TO ISSUERS OF EMPLOYER
24 SECURITIES SUBJECT TO BLACKOUT PERIOD.—
25 In the case of any blackout period in connection



1 with an applicable pension plan, the plan ad-
2 ministrator shall provide timely notice of such
3 blackout period to the issuer of any employer
4 securities subject to such blackout period.

5 “(3) EXCEPTION FOR BLACKOUT PERIODS
6 WITH LIMITED APPLICABILITY.—In any case in
7 which the blackout period applies only to 1 or more
8 participants or beneficiaries in connection with a
9 merger, acquisition, divestiture, or similar trans-
10 action involving the plan or plan sponsor and occurs
11 solely in connection with becoming or ceasing to be
12 a participant or beneficiary under the plan by reason
13 of such merger, acquisition, divestiture, or trans-
14 action, the requirement of this subsection that the
15 notice be provided to all participants and bene-
16 ficiaries shall be treated as met if the notice required
17 under paragraph (1) is provided to such participants
18 or beneficiaries to whom the blackout period applies
19 as soon as reasonably practicable.

20 “(4) CHANGES IN LENGTH OF BLACKOUT PE-
21 RIOD.—If, following the furnishing of the notice pur-
22 suant to this subsection, there is a change in the be-
23 ginning date or length of the blackout period (speci-
24 fied in such notice pursuant to paragraph
25 (2)(A)(iii)), the administrator shall provide affected



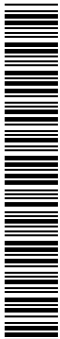
1 participants and beneficiaries notice of the change as
2 soon as reasonably practicable. In relation to the ex-
3 tended blackout period, such notice shall meet the
4 requirements of paragraph (2)(D) and shall specify
5 any material change in the matters referred to in
6 clauses (i) through (v) of paragraph (2)(A).

7 “(5) REGULATORY EXCEPTIONS.—The Sec-
8 retary may provide by regulation for additional ex-
9 ceptions to the requirements of this subsection which
10 the Secretary determines are in the interests of par-
11 ticipants and beneficiaries.

12 “(6) GUIDANCE AND MODEL NOTICES.—The
13 Secretary shall issue guidance and model notices
14 which meet the requirements of this subsection.

15 “(7) BLACKOUT PERIOD.—For purposes of this
16 subsection—

17 “(A) IN GENERAL.—The term ‘blackout
18 period’ means, in connection with an applicable
19 pension plan, any period for which any ability
20 of participants or beneficiaries under the plan,
21 which is otherwise available under the terms of
22 such plan, to direct or diversify assets credited
23 to their accounts, to obtain loans from the plan,
24 or to obtain distributions from the plan is tem-
25 porarily suspended, limited, or restricted, if



1 such suspension, limitation, or restriction is for
2 any period of more than 3 consecutive business
3 days.

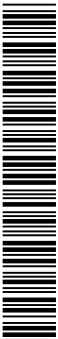
4 “(B) EXCLUSIONS.—The term ‘blackout
5 period’ does not include a suspension, limita-
6 tion, or restriction-

7 “(i) which occurs by reason of the ap-
8 plication of the securities laws (as defined
9 in section 3(a)(47) of the Securities Ex-
10 change Act of 1934),

11 “(ii) which is a change to the plan
12 which provides for a regularly scheduled
13 suspension, limitation, or restriction which
14 is disclosed to participants or beneficiaries
15 through any summary of material modi-
16 fications, any materials describing specific
17 investment alternatives under the plan, or
18 any changes thereto, or

19 “(iii) which applies only to 1 or more
20 individuals, each of whom is the partici-
21 pant, an alternate payee (as defined in sec-
22 tion 414(p)(8), or any other beneficiary
23 pursuant to a qualified domestic relations
24 order (as defined in section 414(p)(1)(A)).

25 “(8) APPLICABLE PENSION PLAN.—



1 “(A) IN GENERAL.—For purposes of this
2 subsection, the term ‘applicable pension plan’
3 means—

4 “(i) a plan described in clause (i), (ii),
5 or (iv) of section 219(g)(5)(A), and

6 “(ii) an eligible deferred compensation
7 plan (as defined in section 457(b)) of an
8 eligible employer described in section
9 457(e)(1)(A),
10 which maintains accounts for participants
11 under the plan or under which the accrued ben-
12 efit of any participant depends in whole or in
13 part on hypothetical investments directed by the
14 participant.

15 “(B) EXCEPTIONS.—Such term shall not
16 include a one-participant retirement plan or a
17 plan to which section 101(i) of the Employee
18 Retirement Income Security Act of 1974 ap-
19 plies.

20 “(C) ONE-PARTICIPANT RETIREMENT
21 PLAN.—For purposes of this paragraph, the
22 term ‘one-participant retirement plan’ means a
23 retirement plan that—

24 “(i) on the first day of the plan
25 year—



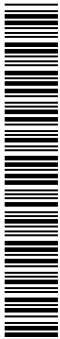
1 “(I) covered only the employer
2 (and the employer’s spouse) and the
3 employer owned the entire business
4 (whether or not incorporated), or

5 “(II) covered only one or more
6 partners (and their spouses) in a busi-
7 ness partnership (including partners
8 in an S or C corporation (as defined
9 in section 1361(a)),

10 “(ii) meets the minimum coverage re-
11 quirements of section 410(b) (as in effect
12 on the date of the enactment of the Sar-
13 banes-Oxley Act of 2002) without being
14 combined with any other plan of the busi-
15 ness that covers the employees of the busi-
16 ness,

17 “(iii) does not provide benefits to any-
18 one except the employer (and the employ-
19 er’s spouse) or the partners (and their
20 spouses),

21 “(iv) does not cover a business that is
22 a member of an affiliated service group, a
23 controlled group of corporations, or a
24 group of businesses under common control,
25 and



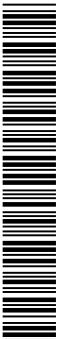
1 “(v) does not cover a business that
2 leases employees.”.

3 “(9) CROSS REFERENCE.—For provisions relat-
4 ing to penalty for failure to provide the notice re-
5 quired by this section, see section 6652(n).”.

6 (b) PENALTY FOR FAILURE TO PROVIDE NOTICE.—
7 Section 6652 (relating to failure to file certain information
8 returns, registration statements, etc.) (as amended by this
9 Act) is amended by redesignating subsection (n) as sub-
10 section (o) and by inserting after subsection (m) the fol-
11 lowing new subsection:

12 “(n) FAILURE TO PROVIDE BLACKOUT PERIOD NO-
13 TICE TO PARTICIPANTS OR BENEFICIARIES.—In the case
14 of each failure to provide a notice as required by section
15 414(x) with respect to a participant or beneficiary entitled
16 to such a notice under such section, at the time prescribed
17 therefor, unless it is shown that such failure is due to rea-
18 sonable cause and not to willful neglect, there shall be
19 paid, on notice and demand of the Secretary and in the
20 same manner as tax, by the person failing to provide such
21 notice, an amount equal to \$100 for such failure but the
22 total amount imposed on such person for all such failures
23 during any calendar year shall not exceed \$500,000.”.

24 (c) PLAN AMENDMENTS.—If any amendment made
25 by this subsection requires an amendment to any plan,



1 such plan amendment shall not be required to be made
2 before the third plan year beginning on or after the effec-
3 tive date of this section, if—

4 (1) during the period after such amendment
5 made by this subsection takes effect and before such
6 third plan year, the plan is operated in good faith
7 compliance with the requirements of such amend-
8 ment made by this subsection, and

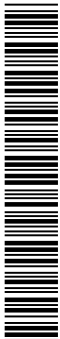
9 (2) such plan amendment applies retroactively
10 to the period after such amendment made by this
11 subsection takes effect and before such third plan
12 year.

13 (d) EFFECTIVE DATE.—The provisions of this sec-
14 tion (including the amendments made thereby) shall take
15 effect two years after the date of the enactment of this
16 Act.

17 **SEC. 1103. DIVERSIFICATION REQUIREMENTS FOR DE-**
18 **FINED CONTRIBUTION PLANS THAT HOLD**
19 **EMPLOYER SECURITIES.**

20 (a) IN GENERAL.—Subsection (a) of section 401 (re-
21 lating to requirements for qualification) is amended by
22 adding at the end the following new paragraph:

23 “(35) DIVERSIFICATION REQUIREMENTS FOR
24 DEFINED CONTRIBUTION PLANS THAT HOLD EM-
25 PLOYER SECURITIES.—



1 “(A) IN GENERAL.—In the case of a de-
2 fined contribution plan described in this sub-
3 section that includes a trust which is exempt
4 from tax under section 501(a) and which holds
5 employer securities that are readily tradable on
6 an established securities market, such trust
7 shall not constitute a qualified trust under this
8 section unless such plan meets the requirements
9 of subparagraphs (B), (C), and (D).

10 “(B) ELECTIVE DEFERRALS AND EM-
11 PLOYEE CONTRIBUTIONS INVESTED IN EM-
12 PLOYER SECURITIES.—In the case of the por-
13 tion of the account attributable to elective de-
14 ferrals and employee contributions which is in-
15 vested in employer securities, a plan meets the
16 requirements of this subparagraph if each ap-
17 plicable individual in such plan may elect to di-
18 rect the plan to divest up to the applicable per-
19 centage of such securities in the individual’s ac-
20 count and to reinvest an equivalent amount in
21 other investment options which meet the re-
22 quirements of subparagraph (E).

23 “(C) MATCHING AND CERTAIN OTHER
24 CONTRIBUTIONS.—



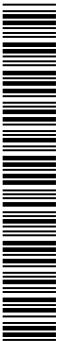
1 “(i) IN GENERAL.—In the case of the
2 portion of the account attributable to con-
3 tributions to which this subparagraph ap-
4 plies and which is invested in employer se-
5 curities, a plan meets the requirements of
6 this subparagraph if each applicable 3-year
7 individual in the plan may elect to direct
8 the plan to divest up to the applicable per-
9 centage of such securities in the individ-
10 ual’s account and to reinvest an equivalent
11 amount in other investment options which
12 meet the requirements of subparagraph
13 (E).

14 “(ii) CONTRIBUTIONS TO WHICH THIS
15 SUBPARAGRAPH APPLIES.—This subpara-
16 graph shall apply to—

17 “(I) matching contributions (as
18 defined in subsection (m)(4)(A)),

19 “(II) qualified nonelective con-
20 tributions (as defined in subsection
21 (m)(4)(C)), and

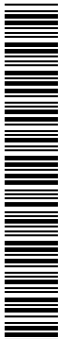
22 “(III) contributions made in
23 order to meet the requirements of
24 subsection (k)(12)(C).



1 “(iii) APPLICABLE 3-YEAR INDI-
2 VIDUAL.—For purposes of clause (i), the
3 term ‘applicable 3-year individual’ means
4 any individual who would be an applicable
5 individual if only participants in the plan
6 who have completed at least 3 years of
7 service (as determined under section
8 411(a)) were taken into account under
9 subparagraph (G)(i)(I).

10 “(D) OTHER EMPLOYER CONTRIBU-
11 TIONS.—

12 “(i) IN GENERAL.—In the case of the
13 portion of the account attributable to em-
14 ployer contributions (other than contribu-
15 tions to which subparagraph (B) or (C)
16 applies) which is invested in employer se-
17 curities, a plan meets the requirements of
18 this subparagraph if each applicable 5-year
19 individual described in clause (ii) may elect
20 to direct the plan to divest up to the appli-
21 cable percentage of such securities in the
22 individual’s account and to reinvest an
23 equivalent amount in other investment op-
24 tions which meet the requirements of sub-
25 paragraph (E).



1 “(ii) APPLICABLE 5-YEAR INDI-
2 VIDUAL.—For purposes of clause (i), the
3 term ‘5-year individual’ means any indi-
4 vidual who would be an applicable indi-
5 vidual if only participants in the plan who
6 have completed at least 5 years of service
7 (as determined under section 411(a)) were
8 taken into account under subparagraph
9 (G)(i)(I).

10 “(E) INVESTMENT OPTIONS.—The require-
11 ments of this subparagraph are met if the plan
12 offers not less than 3 investment options (not
13 inconsistent with regulations prescribed by the
14 Secretary) other than employer securities.

15 “(F) ELECTION.—Elections under this
16 paragraph maybe made not less frequently than
17 quarterly.

18 “(G) OTHER DEFINITIONS AND RULES.—
19 For purposes of this paragraph—

20 “(i) APPLICABLE INDIVIDUAL.—The
21 term ‘applicable individual’ means—

22 “(I) any participant in the plan,

23 “(II) any beneficiary who is an
24 alternate payee (within the meaning
25 of section 414(p)(8)) under an appli-



1 cable qualified domestic relations
 2 order (within the meaning of section
 3 414(p)(1)(A)), and

4 “(III) any beneficiary of a de-
 5 ceased participant or alternate payee.

6 “(ii) ELECTIVE DEFERRALS.—The
 7 term ‘elective deferrals’ means an employer
 8 contribution described in section
 9 402(g)(3)(A).

10 “(iii) EMPLOYER SECURITIES.—The
 11 term ‘employer securities’ shall have the
 12 meaning given such term by section
 13 407(d)(1) of the Employee Retirement In-
 14 come Security Act of 1974.

15 “(iv) EMPLOYEE STOCK OWNERSHIP
 16 PLAN.—The term ‘employee stock owner-
 17 ship plan’ shall have the same meaning
 18 given to such term by section 4975(e)(7).

19 “(v) APPLICABLE PERCENTAGE.—

20 “(I) IN GENERAL.—The applica-
 21 ble percentage shall be as follows:

| “Plan years beginning in: | Applicable percentage: |
|--------------------------------------|-----------------------------------|
| 2004 | 20 |
| 2005 | 40 |
| 2006 | 60 |
| 2007 | 80 |
| 2008 or thereafter | 100. |



1 “(II) ELECTIVE DEFERRALS
2 TREATED AS SEPARATE PLAN NOT IN-
3 DIVIDUAL ACCOUNT PLAN.—In the
4 case of elective deferrals and employee
5 contributions (and any earnings allo-
6 cable thereto) held within a plan
7 treated as a separate plan as of the
8 date of the enactment of this para-
9 graph under section 407(b)(2) of the
10 Employee Retirement Income Security
11 Act of 1974, for purposes of subpara-
12 graph (B) the applicable percentage
13 shall be 100 percent.

14 “(III) CONTRIBUTIONS HELD
15 WITHIN AN ESOP.—In the case of con-
16 tributions (other than elective defer-
17 rals and employee contributions) held
18 within an employee stock ownership
19 plan, in the case of years 2004 and
20 2005, the applicable percentage shall
21 be the greater of the amount deter-
22 mined under subclause (I) or the per-
23 centage determined under paragraph
24 (28) (determined as if paragraph (28)



1 applied to a plan described in this
2 paragraph).

3 “(vi) COORDINATION WITH PARA-
4 GRAPH (28).—Subparagraphs (B), (C), and
5 (D) shall apply to the extent that the
6 amount attributable to the applicable per-
7 centage under such subparagraph exceeds
8 the amount to which a prior election under
9 such subparagraph or paragraph (28) ap-
10 plies.

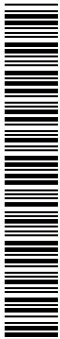
11 “(H) EXCEPTION FOR CERTAIN ESOPS.—
12 This paragraph shall apply to an employee
13 stock ownership plan only if the plan holds
14 amounts attributable to deferrals or contribu-
15 tions to which subparagraph (B) or (C) apply.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 401(a)(28) is amended by adding at
18 the end the following new subparagraph:

19 “(D) APPLICATION.—This paragraph shall
20 not apply to a plan to which paragraph (35) ap-
21 plies.”.

22 (2) Section 409(h)(7) is amended by inserting
23 before the period at the end “or subparagraph (B),
24 (C), or (D) of section 401(a)(35)”.



1 (3) Section 4980(c)(3)(A) is amended by strik-
2 ing “if—” and all that follows and inserting “if the
3 requirements of subparagraphs (B), (C), and (D)
4 are met.”.

5 (c) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the amendments made by this section
8 shall apply to plan years beginning after December
9 31, 2003.

10 (2) EXCEPTION.—The amendments made by
11 this section shall not apply to employer securities
12 held by an employee stock ownership plan which are
13 not subject to section 401(a)(28) of the Internal
14 Revenue Code of 1986 by reason of section
15 1175(a)(2) of the Tax Reform Act of 1986 (100
16 Stat. 2519).

17 **SEC. 1104. TREATMENT OF QUALIFIED RETIREMENT PLAN-**
18 **NING SERVICES.**

19 (a) IN GENERAL.—Subsection (m) of section 132
20 (defining qualified retirement services) is amended by add-
21 ing at the end the following new paragraph:

22 “(4) NO CONSTRUCTIVE RECEIPT.—No amount
23 shall be included in the gross income of any em-
24 ployee solely because the employee may choose be-
25 tween any qualified retirement planning services pro-



1 vided by a qualified investment advisor and com-
2 pensation which would otherwise be includible in the
3 gross income of such employee. The preceding sen-
4 tence shall apply to highly compensated employees
5 only if the choice described in such sentence is avail-
6 able on substantially the same terms to each mem-
7 ber of the group of employees normally provided
8 education and information regarding the employer's
9 qualified employer plan."

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 403(b)(3)(B) is amended by insert-
12 ing "132(m)(4)," after "132(f)(4),".

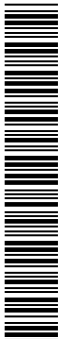
13 (2) Section 414(s)(2) is amended by inserting
14 "132(m)(4)," after "132(f)(4),".

15 (3) Section 415(c)(3)(D)(ii) is amended by in-
16 serting "132(m)(4)," after "132(f)(4),".

17 (c) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to taxable years beginning after
19 December 31, 2003.

20 **SEC. 1105. SPECIAL RULES.**

21 In the case of a plan maintained pursuant to 1 or
22 more collective bargaining agreements between employee
23 representatives and 1 or more employers ratified on or be-
24 fore the date of the enactment of this Act, the amend-



1 ments made by this title shall not apply to plan years be-
2 ginning before the earlier of—

3 (1) the later of—

4 (A) January 1, 2005, or

5 (B) the date on which the last of such col-
6 lective bargaining agreements terminates (de-
7 termined without regard to any extension there-
8 of after the date of the enactment of this Act),
9 or

10 (2) January 1, 2006.

11 **TITLE XII—OTHER TAX PROVI-**
12 **SIONS RELATING TO PEN-**
13 **SIONS**

14 **SEC. 1201. AMENDMENTS TO RETIREMENT PROTECTION**
15 **ACT OF 1994.**

16 (a) **TRANSITION RULE MADE PERMANENT.**—Para-
17 graph (1) of section 769(c) of the Retirement Protection
18 Act of 1994 is amended—

19 (1) by striking “transition” each place it ap-
20 pears in the heading and the text, and

21 (2) by striking “for any plan year beginning
22 after 1996 and before 2010”.

23 (b) **SPECIAL RULES.**—Paragraph (2) of section
24 769(c) of the Retirement Protection Act of 1994 is amend-
25 ed to read as follows:



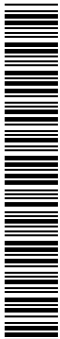
1 “(2) SPECIAL RULES.—The rules described in
2 this paragraph are as follows:

3 “(A) For purposes of section 412(l)(9)(A)
4 of the Internal Revenue Code of 1986 and sec-
5 tion 302(d)(9)(A) of the Employee Retirement
6 Income Security Act of 1974, the funded cur-
7 rent liability percentage for any plan year shall
8 be treated as not less than 90 percent.

9 “(B) For purposes of section 412(m) of
10 the Internal Revenue Code of 1986 and section
11 302(e) of the Employee Retirement Income Se-
12 curity Act of 1974, the funded current liability
13 percentage for any plan year shall be treated as
14 not less than 100 percent.

15 “(C) For purposes of determining un-
16 funded vested benefits under section
17 4006(a)(3)(E)(iii) of the Employee Retirement
18 Income Security Act of 1974, the mortality
19 table shall be the mortality table used by the
20 plan.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to plan years beginning after De-
23 cember 31, 2002.



1 **SEC. 1202. REPORTING SIMPLIFICATION.**

2 (a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR
3 OWNERS AND THEIR SPOUSES.—

4 (1) IN GENERAL.—The Secretary of the Treas-
5 ury and the Secretary of Labor shall modify the re-
6 quirements for filing annual returns with respect to
7 one-participant retirement plans to ensure that such
8 plans with assets of \$250,000 or less as of the close
9 of the plan year need not file a return for that year.

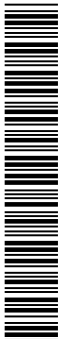
10 (2) ONE-PARTICIPANT RETIREMENT PLAN DE-
11 FINED.—For purposes of this subsection, the term
12 “one-participant retirement plan” means a retire-
13 ment plan that—

14 (A) on the first day of the plan year—

15 (i) covered only the employer (and the
16 employer’s spouse) and the employer
17 owned the entire business (whether or not
18 incorporated); or

19 (ii) covered only one or more partners
20 (and their spouses) in a business partner-
21 ship (including partners in an S or C cor-
22 poration);

23 (B) meets the minimum coverage require-
24 ments of section 410(b) of the Internal Revenue
25 Code of 1986 without being combined with any



1 other plan of the business that covers the em-
2 ployees of the business;

3 (C) does not provide benefits to anyone ex-
4 cept the employer (and the employer's spouse)
5 or the partners (and their spouses);

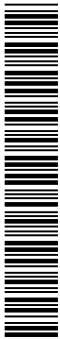
6 (D) does not cover a business that is a
7 member of an affiliated service group, a con-
8 trolled group of corporations, or a group of
9 businesses under common control; and

10 (E) does not cover a business that leases
11 employees.

12 (3) OTHER DEFINITIONS.—Terms used in para-
13 graph (2) which are also used in section 414 of the
14 Internal Revenue Code of 1986 shall have the re-
15 spective meanings given such terms by such section.

16 (4) EFFECTIVE DATE.—The provisions of this
17 subsection shall apply to plan years beginning on or
18 after January 1, 2003.

19 (b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR
20 PLANS WITH FEWER THAN 25 EMPLOYEES.—In the case
21 of plan years beginning after December 31, 2004, the Sec-
22 retary of the Treasury and the Secretary of Labor shall
23 provide for the filing of a simplified annual return for any
24 retirement plan which covers less than 25 employees on
25 the first day of a plan year and which meets the require-



1 ments described in subparagraphs (B), (D), and (E) of
2 subsection (a)(2).

3 **SEC. 1203. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-**
4 **ANCE RESOLUTION SYSTEM.**

5 The Secretary of the Treasury shall continue to up-
6 date and improve the Employee Plans Compliance Resolu-
7 tion System (or any successor program) giving special at-
8 tention to—

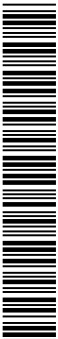
9 (1) increasing the awareness and knowledge of
10 small employers concerning the availability and use
11 of the program;

12 (2) taking into account special concerns and
13 circumstances that small employers face with respect
14 to compliance and correction of compliance failures;

15 (3) extending the duration of the self-correction
16 period under the Self-Correction Program for signifi-
17 cant compliance failures;

18 (4) expanding the availability to correct insig-
19 nificant compliance failures under the Self-Correc-
20 tion Program during audit; and

21 (5) assuring that any tax, penalty, or sanction
22 that is imposed by reason of a compliance failure is
23 not excessive and bears a reasonable relationship to
24 the nature, extent, and severity of the failure.



1 The Secretary of the Treasury shall have full authority
2 to effectuate the foregoing with respect to the Employee
3 Plans Compliance Resolution System (or any successor
4 program) and any other employee plans correction poli-
5 cies, including the authority to waive income, excise, or
6 other taxes to ensure that any tax, penalty, or sanction
7 is not excessive and bears a reasonable relationship to the
8 nature, extent, and severity of the failure.

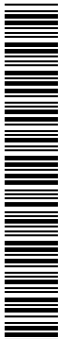
9 **SEC. 1204. EXTENSION TO ALL GOVERNMENTAL PLANS OF**
10 **MORATORIUM ON APPLICATION OF CERTAIN**
11 **NONDISCRIMINATION RULES APPLICABLE TO**
12 **STATE AND LOCAL PLANS.**

13 (a) IN GENERAL.—

14 (1) Subparagraph (G) of section 401(a)(5) and
15 subparagraph (H) of section 401(a)(26) are each
16 amended by striking “section 414(d))” and all that
17 follows and inserting “section 414(d)).”.

18 (2) Subparagraph (G) of section 401(k)(3) and
19 paragraph (2) of section 1505(d) of the Taxpayer
20 Relief Act of 1997 are each amended by striking
21 “maintained by a State or local government or polit-
22 ical subdivision thereof (or agency or instrumentality
23 thereof)”.

24 (b) CONFORMING AMENDMENTS.—



1 (1) The heading for subparagraph (G) of sec-
2 tion 401(a)(5) is amended to read as follows: “GOV-
3 ERNMENTAL PLANS.—”.

4 (2) The heading for subparagraph (H) of sec-
5 tion 401(a)(26) is amended to read as follows: “EX-
6 CEPTION FOR GOVERNMENTAL PLANS.—”.

7 (3) Subparagraph (G) of section 401(k)(3) is
8 amended by inserting “GOVERNMENTAL PLANS.—”
9 after “(G)”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to years beginning after December
12 31, 2003.

13 **SEC. 1205. NOTICE AND CONSENT PERIOD REGARDING DIS-**
14 **TRIBUTIONS.**

15 (a) EXPANSION OF PERIOD.—

16 (1) AMENDMENT OF INTERNAL REVENUE
17 CODE.—

18 (A) IN GENERAL.—Subparagraph (A) of
19 section 417(a)(6) is amended by striking “90-
20 day” and inserting “180-day”.

21 (B) MODIFICATION OF REGULATIONS.—

22 The Secretary of the Treasury shall modify the
23 regulations under sections 402(f), 411(a)(11),
24 and 417 of the Internal Revenue Code of 1986
25 to substitute “180 days” for “90 days” each



1 place it appears in Treasury Regulations sec-
2 tions 1.402(f)-1, 1.411(a)-11(c), and 1.417(e)-
3 1(b).

4 (2) EFFECTIVE DATE.—The amendment made
5 by paragraph (1)(A) and the modifications required
6 by paragraph (1)(B) shall apply to years beginning
7 after December 31, 2003.

8 (b) CONSENT REGULATION INAPPLICABLE TO CER-
9 TAIN DISTRIBUTIONS.—

10 (1) IN GENERAL.—The Secretary of the Treas-
11 ury shall modify the regulations under section
12 411(a)(11) of the Internal Revenue Code of 1986 to
13 provide that the description of a participant's right,
14 if any, to defer receipt of a distribution shall also de-
15 scribe the consequences of failing to defer such re-
16 ceipt.

17 (2) EFFECTIVE DATE.—

18 (A) IN GENERAL.—The modifications re-
19 quired by paragraph (1) shall apply to years be-
20 ginning after December 31, 2003.

21 (B) REASONABLE NOTICE.—In the case of
22 any description of such consequences made be-
23 fore the date that is 90 days after the date on
24 which the Secretary of the Treasury issues a
25 safe harbor description under paragraph (1), a



1 plan shall not be treated as failing to satisfy the
2 requirements of section 411(a)(11) of such
3 Code by reason of the failure to provide the in-
4 formation required by the modifications made
5 under paragraph (1) if the Administrator of
6 such plan makes a reasonable attempt to com-
7 ply with such requirements.

8 **SEC. 1206. REDUCED PBGC PREMIUM FOR NEW PLANS OF**
9 **SMALL EMPLOYERS.**

10 (a) IN GENERAL.—Subparagraph (A) of section
11 4006(a)(3) of the Employee Retirement Income Security
12 Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

13 (1) in clause (i), by inserting “other than a new
14 single-employer plan (as defined in subparagraph
15 (F)) maintained by a small employer (as so de-
16 fined),” after “single-employer plan,”

17 (2) in clause (iii), by striking the period at the
18 end and inserting “, and”, and

19 (3) by adding at the end the following new
20 clause:

21 “(iv) in the case of a new single-employer plan
22 (as defined in subparagraph (F)) maintained by a
23 small employer (as so defined) for the plan year, \$5
24 for each individual who is a participant in such plan
25 during the plan year.”.

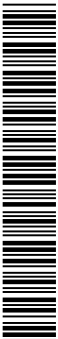


1 (b) DEFINITION OF NEW SINGLE-EMPLOYER
2 PLAN.—Section 4006(a)(3) of the Employee Retirement
3 Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is
4 amended by adding at the end the following new subpara-
5 graph:

6 “(F)(i) For purposes of this paragraph, a single-em-
7 ployer plan maintained by a contributing sponsor shall be
8 treated as a new single-employer plan for each of its first
9 5 plan years if, during the 36-month period ending on the
10 date of the adoption of such plan, the sponsor or any
11 member of such sponsor’s controlled group (or any prede-
12 cessor of either) did not establish or maintain a plan to
13 which this title applies with respect to which benefits were
14 accrued for substantially the same employees as are in the
15 new single-employer plan.

16 “(ii)(I) For purposes of this paragraph, the term
17 ‘small employer’ means an employer which on the first day
18 of any plan year has, in aggregation with all members of
19 the controlled group of such employer, 100 or fewer em-
20 ployees.

21 “(II) In the case of a plan maintained by two or more
22 contributing sponsors that are not part of the same con-
23 trolled group, the employees of all contributing sponsors
24 and controlled groups of such sponsors shall be aggregated



1 for purposes of determining whether any contributing
2 sponsor is a small employer.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to plans established after Decem-
5 ber 31, 2002.

6 **SEC. 1207. REDUCTION OF ADDITIONAL PBGC PREMIUM**
7 **FOR NEW AND SMALL PLANS.**

8 (a) NEW PLANS.—Subparagraph (E) of section
9 4006(a)(3) of the Employee Retirement Income Security
10 Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by
11 adding at the end the following new clause:

12 “(v) In the case of a new defined benefit plan, the
13 amount determined under clause (ii) for any plan year
14 shall be an amount equal to the product of the amount
15 determined under clause (ii) and the applicable percent-
16 age. For purposes of this clause, the term ‘applicable per-
17 centage’ means—

18 “(I) 0 percent, for the first plan year.

19 “(II) 20 percent, for the second plan year.

20 “(III) 40 percent, for the third plan year.

21 “(IV) 60 percent, for the fourth plan year.

22 “(V) 80 percent, for the fifth plan year.

23 For purposes of this clause, a defined benefit plan (as de-
24 fined in section 3(35)) maintained by a contributing spon-
25 sor shall be treated as a new defined benefit plan for each



1 of its first 5 plan years if, during the 36-month period
2 ending on the date of the adoption of the plan, the sponsor
3 and each member of any controlled group including the
4 sponsor (or any predecessor of either) did not establish
5 or maintain a plan to which this title applies with respect
6 to which benefits were accrued for substantially the same
7 employees as are in the new plan.”.

8 (b) SMALL PLANS.—Paragraph (3) of section
9 4006(a) of the Employee Retirement Income Security Act
10 of 1974 (29 U.S.C. 1306(a)), as amended by section
11 207(b), is amended—

12 (1) by striking “The” in subparagraph (E)(i)
13 and inserting “Except as provided in subparagraph
14 (G), the”, and

15 (2) by inserting after subparagraph (F) the fol-
16 lowing new subparagraph:

17 “(G)(i) In the case of an employer who has 25 or
18 fewer employees on the first day of the plan year, the addi-
19 tional premium determined under subparagraph (E) for
20 each participant shall not exceed \$5 multiplied by the
21 number of participants in the plan as of the close of the
22 preceding plan year.

23 “(ii) For purposes of clause (i), whether an employer
24 has 25 or fewer employees on the first day of the plan
25 year is determined taking into consideration all of the em-



1 ployees of all members of the contributing sponsor's con-
2 trolled group. In the case of a plan maintained by two
3 or more contributing sponsors, the employees of all con-
4 tributing sponsors and their controlled groups shall be ag-
5 gregated for purposes of determining whether the 25-or-
6 fewer-employees limitation has been satisfied.”.

7 (c) EFFECTIVE DATES.—

8 (1) SUBSECTION (a).—The amendments made
9 by subsection (a) shall apply to plans established
10 after December 31, 2002.

11 (2) SUBSECTION (b).—The amendments made
12 by subsection (b) shall apply to plan years beginning
13 after December 31, 2003.

14 **SEC. 1208. AUTHORIZATION FOR PBGC TO PAY INTEREST**
15 **ON PREMIUM OVERPAYMENT REFUNDS.**

16 (a) IN GENERAL.—Section 4007(b) of the Employ-
17 ment Retirement Income Security Act of 1974 (29 U.S.C.
18 1307(b)) is amended—

19 (1) by striking “(b)” and inserting “(b)(1)”,
20 and

21 (2) by inserting at the end the following new
22 paragraph:

23 “(2) The corporation is authorized to pay, subject to
24 regulations prescribed by the corporation, interest on the
25 amount of any overpayment of premium refunded to a des-



1 ignated payor. Interest under this paragraph shall be cal-
2 culated at the same rate and in the same manner as inter-
3 est is calculated for underpayments under paragraph
4 (1).”.

5 (b) **EFFECTIVE DATE.**—The amendment made by
6 subsection (a) shall apply to interest accruing for periods
7 beginning not earlier than the date of the enactment of
8 this Act.

9 **SEC. 1209. SUBSTANTIAL OWNER BENEFITS IN TERMI-**
10 **NATED PLANS.**

11 (a) **MODIFICATION OF PHASE-IN OF GUARANTEE.**—
12 Section 4022(b)(5) of the Employee Retirement Income
13 Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended
14 to read as follows:

15 “(5)(A) For purposes of this paragraph, the term
16 ‘majority owner’ means an individual who, at any time
17 during the 60-month period ending on the date the deter-
18 mination is being made—

19 “(i) owns the entire interest in an unincor-
20 porated trade or business,

21 “(ii) in the case of a partnership, is a partner
22 who owns, directly or indirectly, 50 percent or more
23 of either the capital interest or the profits interest
24 in such partnership, or



1 “(iii) in the case of a corporation, owns, directly
2 or indirectly, 50 percent or more in value of either
3 the voting stock of that corporation or all the stock
4 of that corporation.

5 For purposes of clause (iii), the constructive ownership
6 rules of section 1563(e) of the Internal Revenue Code of
7 1986 shall apply (determined without regard to section
8 1563(e)(3)(C)).

9 “(B) In the case of a participant who is a majority
10 owner, the amount of benefits guaranteed under this sec-
11 tion shall equal the product of—

12 “(i) a fraction (not to exceed 1) the numerator
13 of which is the number of years from the later of the
14 effective date or the adoption date of the plan to the
15 termination date, and the denominator of which is
16 10, and

17 “(ii) the amount of benefits that would be guar-
18 anteed under this section if the participant were not
19 a majority owner.”.

20 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

21 (1) Section 4044(a)(4)(B) of the Employee Re-
22 tirement Income Security Act of 1974 (29 U.S.C.
23 1344(a)(4)(B)) is amended by striking “section
24 4022(b)(5)” and inserting “section 4022(b)(5)(B)”.



1 (2) Section 4044(b) of such Act (29 U.S.C.
2 1344(b)) is amended—

3 (A) by striking “(5)” in paragraph (2) and
4 inserting “(4), (5),” and

5 (B) by redesignating paragraphs (3)
6 through (6) as paragraphs (4) through (7), re-
7 spectively, and by inserting after paragraph (2)
8 the following new paragraph:

9 “(3) If assets available for allocation under
10 paragraph (4) of subsection (a) are insufficient to
11 satisfy in full the benefits of all individuals who are
12 described in that paragraph, the assets shall be allo-
13 cated first to benefits described in subparagraph (A)
14 of that paragraph. Any remaining assets shall then
15 be allocated to benefits described in subparagraph
16 (B) of that paragraph. If assets allocated to such
17 subparagraph (B) are insufficient to satisfy in full
18 the benefits described in that subparagraph, the as-
19 sets shall be allocated pro rata among individuals on
20 the basis of the present value (as of the termination
21 date) of their respective benefits described in that
22 subparagraph.”.

23 (c) CONFORMING AMENDMENTS.—



1 (1) Section 4021 of the Employee Retirement
2 Income Security Act of 1974 (29 U.S.C. 1321) is
3 amended—

4 (A) in subsection (b)(9), by striking “as
5 defined in section 4022(b)(6)”, and

6 (B) by adding at the end the following new
7 subsection:

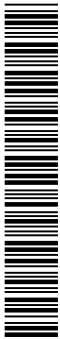
8 “(d) For purposes of subsection (b)(9), the term ‘sub-
9 stantial owner’ means an individual who, at any time dur-
10 ing the 60-month period ending on the date the determina-
11 tion is being made—

12 “(1) owns the entire interest in an unincor-
13 porated trade or business,

14 “(2) in the case of a partnership, is a partner
15 who owns, directly or indirectly, more than 10 per-
16 cent of either the capital interest or the profits inter-
17 est in such partnership, or

18 “(3) in the case of a corporation, owns, directly
19 or indirectly, more than 10 percent in value of either
20 the voting stock of that corporation or all the stock
21 of that corporation.

22 For purposes of paragraph (3), the constructive ownership
23 rules of section 1563(e) of the Internal Revenue Code of
24 1986 shall apply (determined without regard to section
25 1563(e)(3)(C)).”.



1 (2) Section 4043(c)(7) of such Act (29 U.S.C.
2 1343(c)(7)) is amended by striking “section 4022(b)(6)”
3 and inserting “section 4021(d)”.

4 (d) EFFECTIVE DATES.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by this section
7 shall apply to plan terminations—

8 (A) under section 4041(c) of the Employee
9 Retirement Income Security Act of 1974 (29
10 U.S.C. 1341(c)) with respect to which notices
11 of intent to terminate are provided under sec-
12 tion 4041(a)(2) of such Act (29 U.S.C.
13 1341(a)(2)) after December 31, 2002, and

14 (B) under section 4042 of such Act (29
15 U.S.C. 1342) with respect to which proceedings
16 are instituted by the corporation after such
17 date.

18 (2) CONFORMING AMENDMENTS.—The amend-
19 ments made by subsection (c) shall take effect on
20 January 1, 2004.

21 **SEC. 1210. QUALIFIED GROUP LEGAL SERVICES PLANS.**

22 (a) IN GENERAL.—Subsection (e) of section 120 of
23 the Internal Revenue Code of 1986 is amended to read
24 as follows:



1 “(e) APPLICATION OF SECTION.—This section and
2 section 501(c)(20) shall apply to taxable years
3 beginning—

4 “(1) after December 31, 1976, and before July
5 1, 1992, and

6 “(2) after December 31, 2003, and before Jan-
7 uary 1, 2009.”.

8 (b) INCREASE IN MAXIMUM EXCLUSION.—The last
9 sentence of section 120(a) of such Code is amended by
10 striking “\$70” and inserting “\$150”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2003.

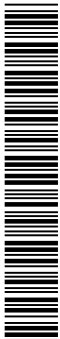
14 **SEC. 1211. STUDIES.**

15 (a) MODEL SMALL EMPLOYER GROUP PLANS
16 STUDY.—As soon as practicable after the date of the en-
17 actment of this Act, the Secretary of Labor, in consulta-
18 tion with the Secretary of the Treasury, shall conduct a
19 study to determine—

20 (1) the most appropriate form or forms of—

21 (A) employee pension benefit plans which
22 would—

23 (i) be simple in form and easily main-
24 tained by multiple small employers, and



1 (ii) provide for ready portability of
2 benefits for all participants and bene-
3 ficiaries,

4 (B) alternative arrangements providing
5 comparable benefits which may be established
6 by employee or employer associations, and

7 (C) alternative arrangements providing
8 comparable benefits to which employees may
9 contribute in a manner independent of employer
10 sponsorship, and

11 (2) appropriate methods and strategies for
12 making pension plan coverage described in para-
13 graph (1) more widely available to American work-
14 ers.

15 (b) MATTERS TO BE CONSIDERED.—In conducting
16 the study under subsection (a), the Secretary of Labor
17 shall consider the adequacy and availability of existing em-
18 ployee pension benefit plans and the extent to which exist-
19 ing models may be modified to be more accessible to both
20 employees and employers.

21 (c) REPORT.—Not later than 18 months after the
22 date of the enactment of this Act, the Secretary of Labor
23 shall report the results of the study under subsection (a),
24 together with the Secretary's recommendations, to the
25 Committee on Education and the Workforce and the Com-



1 mittee on Ways and Means of the House of Representa-
2 tives and the Committee on Health, Education, Labor,
3 and Pensions and the Committee on Finance of the Sen-
4 ate. Such recommendations shall include one or more
5 model plans described in subsection (a)(1)(A) and model
6 alternative arrangements described in subsections
7 (a)(1)(B) and (a)(1)(C) which may serve as the basis for
8 appropriate administrative or legislative action.

9 (d) STUDY ON EFFECT OF LEGISLATION.—Not later
10 than 5 years after the date of the enactment of this Act,
11 the Secretary of Labor shall submit to the Committee on
12 Education and the Workforce of the House of Representa-
13 tives and the Committee on Health, Education, Labor,
14 and Pensions of the Senate a report on the effect of the
15 provisions of this Act and title VI of the Economic Growth
16 and Tax Relief Reconciliation Act of 2001 on pension plan
17 coverage, including any change in—

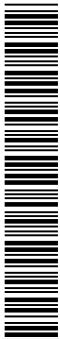
18 (1) the extent of pension plan coverage for low
19 and middle-income workers,

20 (2) the levels of pension plan benefits generally,

21 (3) the quality of pension plan coverage gen-
22 erally,

23 (4) workers' access to and participation in pen-
24 sion plans, and

25 (5) retirement security.



1 **TITLE XIII—STOCK OPTIONS**

2 **SEC. 1301. EXCLUSION OF INCENTIVE STOCK OPTIONS AND**
3 **EMPLOYEE STOCK PURCHASE PLAN STOCK**
4 **OPTIONS FROM WAGES.**

5 (a) EXCLUSION FROM EMPLOYMENT TAXES.—

6 (1) SOCIAL SECURITY TAXES.—

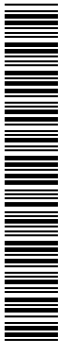
7 (A) Section 3121(a) (relating to definition
8 of wages) is amended by striking “or” at the
9 end of paragraph (20), by striking the period at
10 the end of paragraph (21) and inserting “; or”,
11 and by inserting after paragraph (21) the fol-
12 lowing new paragraph:

13 “(22) remuneration on account of—

14 “(A) a transfer of a share of stock to any
15 individual pursuant to an exercise of an incen-
16 tive stock option (as defined in section 422(b))
17 or under an employee stock purchase plan (as
18 defined in section 423(b)), or

19 “(B) any disposition by the individual of
20 such stock.”.

21 (B) Section 209(a) of the Social Security
22 Act is amended by striking “or” at the end of
23 paragraph (17), by striking the period at the
24 end of paragraph (18) and inserting “; or”, and



1 by inserting after paragraph (18) the following
2 new paragraph:

3 “(19) Remuneration on account of—

4 “(A) a transfer of a share of stock to any
5 individual pursuant to an exercise of an incen-
6 tive stock option (as defined in section 422(b)
7 of the Internal Revenue Code of 1986) or under
8 an employee stock purchase plan (as defined in
9 section 423(b) of such Code), or

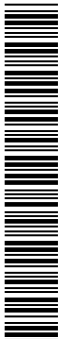
10 “(B) any disposition by the individual of
11 such stock.”.

12 (2) RAILROAD RETIREMENT TAXES.—Sub-
13 section (e) of section 3231 is amended by adding at
14 the end the following new paragraph:

15 “(11) QUALIFIED STOCK OPTIONS.—The term
16 ‘compensation’ shall not include any remuneration
17 on account of—

18 “(A) a transfer of a share of stock to any
19 individual pursuant to an exercise of an incen-
20 tive stock option (as defined in section 422(b))
21 or under an employee stock purchase plan (as
22 defined in section 423(b)), or

23 “(B) any disposition by the individual of
24 such stock.”.



1 (3) UNEMPLOYMENT TAXES.—Section 3306(b)
2 (relating to definition of wages) is amended by strik-
3 ing “or” at the end of paragraph (16), by striking
4 the period at the end of paragraph (17) and insert-
5 ing “; or”, and by inserting after paragraph (17) the
6 following new paragraph:

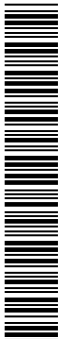
7 “(18) remuneration on account of—

8 “(A) a transfer of a share of stock to any
9 individual pursuant to an exercise of an incen-
10 tive stock option (as defined in section 422(b))
11 or under an employee stock purchase plan (as
12 defined in section 423(b)), or

13 “(B) any disposition by the individual of
14 such stock.”.

15 (b) WAGE WITHHOLDING NOT REQUIRED ON DIS-
16 QUALIFYING DISPOSITIONS.—Section 421(b) (relating to
17 effect of disqualifying dispositions) is amended by adding
18 at the end the following new sentence: “No amount shall
19 be required to be deducted and withheld under chapter
20 24 with respect to any increase in income attributable to
21 a disposition described in the preceding sentence.”.

22 (c) WAGE WITHHOLDING NOT REQUIRED ON COM-
23 PENSATION WHERE OPTION PRICE IS BETWEEN 85 PER-
24 CENT AND 100 PERCENT OF VALUE OF STOCK.—Section
25 423(c) (relating to special rule where option price is be-



1 tween 85 percent and 100 percent of value of stock) is
2 amended by adding at the end the following new sentence:
3 “No amount shall be required to be deducted and withheld
4 under chapter 24 with respect to any amount treated as
5 compensation under this subsection.”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to stock acquired pursuant to op-
8 tions exercised after the date of the enactment of this Act.

9 **TITLE XIV—OTHER ELEMENTS** 10 **OF RETIREMENT SECURITY**

11 **SEC. 1401. EMPLOYEE PRE-TAX PAYMENTS FOR RETIREE** 12 **HEALTH.**

13 (a) IN GENERAL.—Section 106 (relating to contribu-
14 tions by employer to accident and health plans) is amend-
15 ed by adding at the end the following new subsection:

16 “(d) EMPLOYER-PROVIDED COVERAGE OF FORMER
17 EMPLOYEES.—

18 “(1) IN GENERAL.—Coverage under an accident
19 or health plan maintained by an employer which is
20 provided to a former employee of the employer shall
21 be treated as employer-provided coverage under an
22 accident or health plan for purposes of subsection
23 (a) to the extent such coverage is paid for by the
24 former employee pursuant to a qualified election. No
25 amount shall be included in the gross income of any



1 former employee solely because the former employee
2 may make the choice described in paragraph (3).

3 “(2) APPLICABLE LIMITATION.—

4 “(A) IN GENERAL.—In the case of taxable
5 years beginning before January 1, 2010, the
6 amount of benefits under an eligible retirement
7 plan (as defined in clauses (iii), (iv), (v), and
8 (vi) of section 402(c)(8)(B)) of an employer
9 which may be excluded from the gross income
10 of an individual by reason of paragraph (1)
11 shall not exceed the applicable limitation.

12 “(B) APPLICABLE LIMITATION.—For pur-
13 poses of subparagraph (A), the applicable limi-
14 tation shall be determined in accordance with
15 the following table:

| “For taxable years beginning in: | The applicable limitation is: |
|---|--------------------------------------|
| 2004 and 2005 | \$500 |
| 2006 and 2007 | \$1,000 |
| 2008 and 2009 | \$2,000 |

16 “(3) QUALIFIED ELECTION.—For purposes of
17 paragraph (1), a qualified election is an election
18 made by the former employee to have benefits other-
19 wise payable to the former employee under an eligi-
20 ble retirement plan (as defined in clauses (iii), (iv),
21 (v), and (vi) of section 402(c)(8)(B)) (or under an
22 annuity contract distributed by such a plan) used to
23 pay for coverage described in paragraph (1).



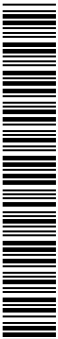
1 “(4) SPECIAL RULES.—For purposes of this
2 subsection—

3 “(A) all eligible retirement plans of an em-
4 ployer shall be treated as a single plan, and

5 “(B) with respect to an eligible retirement
6 plan of an employer, a beneficiary or alternate
7 payee (as defined in section 414(p)(8)) of a
8 former employee shall be treated in the same
9 manner as the former employee.

10 “(5) TREATMENT AS DISTRIBUTION.—For pur-
11 poses of this title, any payment under this sub-
12 section from an eligible retirement plan for coverage
13 under an accident or health plan on behalf of a
14 former employee shall be treated as a distribution
15 from the eligible retirement plan to the former em-
16 ployee, except to the extent that such treatment is
17 inconsistent with this subsection. Such a payment
18 shall be treated as a permissible distribution from
19 the eligible retirement plan to the former employee
20 to the same extent that a cash distribution to the
21 former employee would be permissible.”.

22 (b) CONFORMING AMENDMENT.—The portion of sub-
23 section (h) of section 401 that precedes section 401(h)(1)
24 is amended by striking “but only if” and inserting “but



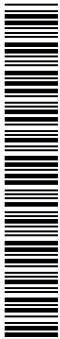
1 only if provided pursuant to a qualified election described
2 in section 106(d) or if”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to amounts paid for coverage under
5 an accident health plan in years beginning after December
6 31, 2003.

7 **SEC. 1402. ENCOURAGING EMPLOYERS TO MAINTAIN RE-**
8 **TIREE HEALTH PLANS.**

9 (a) IN GENERAL.—The first sentence of subsection
10 (h) of section 401 (relating to medical, etc., benefits for
11 retired employees and their spouses and dependents) is
12 amended by striking “pension or annuity plan” and insert-
13 ing “pension, annuity, profit-sharing, or stock bonus
14 plan”.

15 (b) PHASE-IN OF PERMISSIBLE CONTRIBUTIONS
16 FROM PROFIT-SHARING AND STOCK BONUS PLANS.—Sub-
17 section (h) of section 401 (relating to medical, etc., bene-
18 fits for retired employees and their spouses and depend-
19 ents) is amended by adding at the end the following new
20 sentence: “For purposes of the preceding sentence, in the
21 case of contributions to a profit-sharing or stock bonus
22 plan for plan years before plan years beginning in 2010,
23 the ‘applicable percentage’ shall be substituted for ‘25 per-
24 cent’, and the term ‘applicable percentage’ means 5 per-
25 cent for plan years beginning in 2004 and 2005, 10 per-



1 cent for plan years beginning in 2006 and 2007, and 20
2 percent for plan years beginning in 2008 and 2009.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to years beginning after December
5 31, 2003.

6 **TITLE XV—REDUCING** 7 **REGULATORY BURDENS**

8 **SEC. 1501. PROVISIONS RELATING TO PLAN AMENDMENTS.**

9 (a) IN GENERAL.—If this section applies to any plan
10 or contract amendment—

11 (1) such plan or contract shall be treated as
12 being operated in accordance with the terms of the
13 plan during the period described in subsection

14 (b)(2)(A), and

15 (2) except as provided by the Secretary of the
16 Treasury, such plan shall not fail to meet the re-
17 quirements of section 411(d)(6) of the Internal Rev-
18 enue Code of 1986 and section 204(g) of the Em-
19 ployee Retirement Income Security Act of 1974 by
20 reason of such amendment.

21 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

22 (1) IN GENERAL.—This section shall apply to
23 any amendment to any plan or annuity contract
24 which is made—



1 (A) pursuant to any amendment made by
2 this Act or title VI of the Economic Growth and
3 Tax Relief Reconciliation Act of 2001, or pur-
4 suant to any regulation issued by the Secretary
5 of the Treasury or the Secretary of Labor
6 under this Act or such title VI, and

7 (B) on or before the last day of the first
8 plan year beginning on or after January 1,
9 2006.

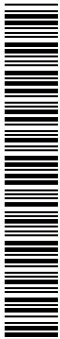
10 In the case of a governmental plan (as defined in
11 section 414(d) of the Internal Revenue Code of
12 1986), this paragraph shall be applied by sub-
13 stituting “2008” for “2006”.

14 (2) CONDITIONS.—This section shall not apply
15 to any amendment unless—

16 (A) during the period—

17 (i) beginning on the date the legisla-
18 tive or regulatory amendment described in
19 paragraph (1)(A) takes effect (or in the
20 case of a plan or contract amendment not
21 required by such legislative or regulatory
22 amendment, the effective date specified by
23 the plan), and

24 (ii) ending on the date described in
25 paragraph (1)(B) (or, if earlier, the date



1 the plan or contract amendment is adopt-
2 ed),
3 the plan or contract is operated as if such plan
4 or contract amendment were in effect; and
5 (B) such plan or contract amendment ap-
6 plies retroactively for such period.

7 **TITLE XVI—SOCIAL SECURITY**
8 **AND MEDICARE HELD HARM-**
9 **LESS**

10 **SEC. 1601. PROTECTION OF SOCIAL SECURITY AND MEDI-**
11 **CARE.**

12 The amounts transferred to any trust fund under the
13 Social Security Act shall be determined as if this Act had
14 not been enacted.

